

Les Soupirs de L' Europe &c.

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OR, THE
GROANS
OF
EUROPE

AT THE
PROSPECT
OF THE
PRESENT POSTURE
OF
AFFAIRS.

In a Letter from a Gentleman at the *Hague* to
a Member of Parliament.

Made English from the Original French.

Printed in the YEAR MDCCXIII.

Price 1 s. 6 d.

Printed by J. B. Nichols & Co.

OF THE

GRAND

OF THE

EUROPE



EROT

OF THE

PRESENT

OF

AFFAIRS

In the House of Commons at the House of Commons
in the Year 1801.

Printed by J. B. Nichols & Co.

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THE
S I G H S
O F
E U R O P E, &c.

GIVE me leave, Sir, to tell you my Thoughts on the Q — S — to h — P — on the 6th. (17th) of June last? With my usual freedom, and as briefly as may be. Those things in it which are plainly express'd deserve some Remarks, but those which seem to be naturally imply'd will bear many more.

There is a surprizing Change in the Posture of Affairs. Formerly when G — B — acted on all occasions, in entire Concert with Her Allies, Parliamentary Speeches were as full and comprehensive as could be wish'd, there was nothing in them mysterious, and every Man might easily comprehend the Meaning of the Expression, which made Persons of all Ranks the eagerer to see them, and to take the greater Satisfaction in the Perusal, as always expecting to find in them some new Overture for the Advancement of the Common Cause.

What a Harvest of Honour and Glory did the English Nation reap in those Times! No Year pass'd but

but her Troops in Conjunction with those of Her Allies, and under the Command of the Great Chief, the Queen had put at their Head, either gain'd some signal Victory, or made some important Conquest.

We Foreigners now look for *Great Britain* in *Great Britain* and can scarce believe we have found it. The State, indeed, is the same; but the Spirit, and the Conduct have a different Aspect. Other Measures and Maxims have Succeeded in the Place of former Counsels; and we cannot but be apprehensive, that, unless Providence prevent it, her former Allies may have the Dissatisfaction of seeing her Enemies become her Friends.

'Tis true, we are still in Alliance with *Great Britain*: But what is become of that Mutual Confidence, and Communication, which that Sacred Tie exacts? Look back, SIR, I beseech you into what has pass'd within a Twelve-month, especially as to the Negotiations of Peace; and Judge, what our Opinion must be of it.

You know the Engagement the Allies are under by the Treaty of the Year, 1701, the Words are these, *Neu ri Partium Fas sit, Bello semel suscepto, de pace cum hoste tractare, nisi conjunctim, & communicatis consiliis*; that is, the War being once begun, it shall not be Lawful for either Party to treat of Peace with the Enemy, unless it be in Concert and by joint Counsels. Nevertheless was not a private Negotiation enter'd upon the last Year, without the least Privy or Participation of the Allies, and with so much Secrecy, that the same was in great Forwardness, before they could discover there was any on Foot? Were not Ministers sent to *France*, and others from the Most Christian King receiv'd, entertain'd and treated with? After several Conferences and a Discussion of all Points which we had no Hand in, were not certain Preliminary Articles agreed on, and deliver'd to the Ministers of the Allies, as a Basis, or Introduction to a General Negotiation? Is this Treating in Concert, and by joint Counsels?

I pass over the extraordinary Method in which the Invitation to the Congress at *Utrecht* was made, because the Emperor and the States General have not insisted on the Form; they sent their Ministers thither; the other

other Allies follow'd their Example; those of *France* came; they gave in their Proposals, which were Answer'd by other Proposals. All this is sufficient to warrant the Legality of a Congress, tho' in other Respects, never so irregular. Thus we have here a Place, and a General Assembly settled; where the Treaty must be carried on; but, is it so in good Earnest? No sooner is this Congress so much wish'd for, and insisted on, form'd; but it seems to us to be neglected and the former Separate and Secret Methods of Negotiation to be resum'd, unknown to the other Allies.

Can you or any Man contradict what I say? Is it not matter of Fact that the Specifick and common Demands of the High Allies were deliver'd to the Plenipotentiaries of *France* on the 5th. of *March* last? That since that Time, no manner of Answer could be got from them? That in the mean time, Secret and Private Negotiations have been carried on with the King their Master? That these Negotiations were never Communicated to the Allies? And that, to this very 7th. of *July* N. S. they pretended they knew no more of them, than what is found in Her Majesty's Speech to the Parliament on the 6th. (17th.) past?

If this be so, we cannot but think, it will look strange to Posterity, that in a General Congress, settled to treat of Peace, and after four Months Expectation, the Allies should not have the Answer the Enemy was to make to their Demands, till they found it in Her Majesty's Speech to the Parliament.

But let us examine that Speech, since there we are to be inform'd of what is design'd for the rest of *Europe* by the Secret Negotiations between the Two Crowns, which hitherto, have not thought, fit to declare their Intentions otherwise.

The first thing we look for in it, is the Cession and Evacuation of *Spain* and the *West Indies* by the Duke of *Anjou*, into the Hands of the Emperor; and instead of that, we find in it his Renunciation to the Crown of *France*, and a Regulation of the Order, which shall hereafter be observ'd in the Succession to the said Crown. A Thing, it is my private Opinion, none of the Allies ever thought of, demanded, or de-

fired, and the Question will be, whether that can procure the Repose, or Safety of *Europe*. Her Majesty declares :

‘ I. That *France* at last is brought to offer, that the Duke of *Anjou* shall, for himself, and his Descendants, renounce for ever all Claim to the Crown of *France*.

‘ II. That as to *Spain* and the *Indies*, the Succession to those Dominions, after the Duke of *Anjou* and his Children, is to descend to such Prince as shall be agreed upon at the Treaty, for ever excluding the rest of the House of *Bourbon*.

‘ III. That *France* offers to make the *Rhine* the Barrier of the Empire ; to yield *Brisac*, the Fort of *Kehl* and *Landau* ; and to raze all the Fortresses, both on the other side of the *Rhine*, and in that River. And that as to the Protestant Interest in *Germany*, there will be, on the Part of *France*, no Objection to the Resettling thereof on the Foot of the Treaty of *Westphalia*.

‘ IV. That the Spanish Low Countries may go to His Imperial Majesty ; the Kingdoms of *Naples* and *Sardinia*, the Dutchy of *Milan*, and the Places belonging to *Spain* on the Coast of *Tuscany*, may likewise be yielded by the Treaty of Peace to the Emperor. And as to the Kingdom of *Sicily*, tho’ there remains no Dispute concerning the Cession of it by the Duke of *Anjou*, yet the Disposition thereof is not yet determined.

‘ V. That the Interests of the *States General*, with Respect to Commerce, are agreed to, as they have been demanded by their own Ministers, with the Exception only of some very few Species of Merchandise, and the entire Barrier, as demanded by the States in 1709, from *France*, except Two or Three Places at most.

‘ VI. That the Demands of *Portugal* depending on the Disposition of *Spain*, and that Article having been long in Dispute, it has not yet been possible to make any considerable Progress therein ; but Her Majesty’s Plenipotentiaries will now have an Opportunity to assist that King in his Pretensions.

‘ VII.

‘ VII. That those of the King of *Prussia* are such as
 ‘ Her Majesty hopes will admit of little Difficulty on
 ‘ the Part of *France*; and that her Endeavors shall
 ‘ not be wanting to procure all she is able to so good
 ‘ an Ally.

‘ VIII. That the Differences between the Barrier de-
 ‘ manded for the Duke of *Savoy* in 1709, and the
 ‘ Offers now made by *France*, is very inconsiderable:
 ‘ But that Prince having so signally distinguished him-
 ‘ self in the Service of the common Cause, Her Ma-
 ‘ jesty is endeavouring to procure for him still further
 ‘ Advantages.

‘ IX. That *France* has consented that the Elector
 ‘ *Palatine* shall continue his present Rank among the
 ‘ Electors, and remain in Possession of the Upper
 ‘ *Palatinate*.

‘ X. That the Electoral Dignity is likewise acknow-
 ‘ ledged in the House of *Hanover*.

‘ XI. That the assuring of the Protestant Succes-
 ‘ sion as by Law establish’d, in the House of *Hano-*
 ‘ *ver* to *Great Britain* being what Her Majesty has
 ‘ nearest at Heart: Particular Care is taken, not
 ‘ only to have that acknowledged in the strongest
 ‘ Terms, but to have an additional Security, by the
 ‘ Removal of that Person out of the Dominions of
 ‘ *France*, who has pretended to disturb this Settle-
 ‘ ment.

‘ XII. That the whole Island of *St. Christophers*
 ‘ shall be absolutely yielded to the *English*; that the
 ‘ whole Bay and Streights of *Hudson* shall be restor’d
 ‘ to them; and that the Island of *Newfoundland* with
 ‘ *Placentia* shall be deliver’d up to them, together
 ‘ with an absolute Cession of *Annapolis*, and of the rest
 ‘ of *Nova Scotia*, or *Accadia*. And that over and
 ‘ above all these, their *Mediterranean* Trade, and *Bri-*
 ‘ *tish* Interest and Influence in those Parts will be
 ‘ secured by the Possession of *Gibraltar* and *Port Ma-*
 ‘ *hon*, with the whole Island of *Minorca*, which are
 ‘ offer’d to be left in Her Majesty’s Hands.

‘ XIII. That a Treaty of Commerce between *Great*
 ‘ *Britain* and *France* has been enter’d upon; but that
 ‘ it is impossible to finish this Work so soon as were

to be desired; That Care is however taken to establish a Method of settling this Matter; and in the mean Time Provision is made, that the same Privileges and Advantages as shall be granted to any other Nation by *France*, shall be granted in like manner to the *English*.

XIV. That the Trade to *Spain*, and to the *West Indies*, may in general be settled, as it was in the Time of the late King of *Spain*, *Charles II.* and a particular Provision be made, that all Advantages, Rights, or Privileges, which have been granted, or which may hereafter be granted, by *Spain*, to any other Nation, shall be, in like manner, granted to the Subjects of *Great Britain*.

XV. But that the Part which the *English* have born in the Prosecution of this War, intitling them to some Distinction in the Terms of Peace, Her Majesty has insisted and obtain'd, that the *Assiento*, or Contract for Furnishing the *Spanish West Indies* with Negroes shall be made with the *English* for the Term of Thirty Years, in the same manner as it has been enjoy'd by the *French* for Ten Years past.

Here are Fifteen Articles, a moderate Discussion of which might take up as many Memorials or Treatises of a tolerable length; But Brevity is commendable in all sorts of Writings, especially in a Letter; and I am oblig'd, for more than one Reason, to be as short as possible in this.

It is observable, That in Communicating to the Parliament the Conditions on which it is intended to make Peace with *France*, There is no Mention of the PRINCIPAL, which is the Yielding to the Duke of *Anjou Spain* and the *West Indies*; it being thought sufficient to suppose it as understood, and even to lay it down as the Foundation of the whole Scheme. It is, however, Notorious, That the Common and Main Design in the present War, was, not only to wrest from the Hands of *France* the *Netherlands*, the Dutchy of *Milan*, and the Kingdom of *Naples*, but also *Spain* and the *West Indies*; It is our Opinion. That the General Interest of *Europe* requires it. That
Justice

Justice 'supports this Demand; and that the Safety of the Dominions of *Great Britain*, as well as of Our Provinces depends upon it.

I am not ignorant, That according to the Sentiments of a Party, which daily gathers Strength, all the rest of *Europe* is stark Blind, and knows nothing of its own Interests; That whatever has been said, written, and asserted, for these Fifty Years past, about the Succession to the *Spanish* Monarchy, are mere Chimeras; And that the Publick Tranquillity and Liberty will be no less Secure if *Spain* and the *West Indies* be left in the House of *Bourbon*, than if they were restored to the House of *Austria*. But who shall be convinc'd of this besides those Persons, who fit their Judgment to their Inclinations?

If the Design of Preserving *Spain* and the *West Indies* in the House of *Austria* were a new Project, never heard of before in *England*, the Partition now proposed to us would appear less Surprising. But who knows not, that since the Peace of *Breda*, or rather since *France* has declared her Pretensions, the PRESERVATION of *Spain* and the *West Indies* is become a Fundamental Principle and Maxim of Union, and COMMON CAUSE among the Allies? 'Tis true that in Consideration of Peace, and because the Case appear'd to be very Remote, the Triple Alliance left the Question undecided; But nevertheless it was agreed by the Separate Articles, That in Case the most Christian King should persist in his Resolution to carry his Victorious Arms into the Netherlands, or that, by other Shifts or Artifices, he should endeavour to hinder or elude the Conclusion of the Peace, *England* and the United Provinces should be obliged to side with *Spain*, and to make War with their United Forces, both by Sea and Land, to force her to a Peace, not only on the Conditions before-mention'd, but, if it be thought fit and convenient, and God shall prosper the Arms taken for that Purpose, the War shall be continued till things are restored to the same Condition they were in at the Time of the *Pyrenean Treaty*.

The

The Danger appearing Greater, and Nearer at the Time of the Grand Alliance concluded at Vienna on the 12th of May 1689, between the late Emperor Leopold and the States General, with the Accession of the King of England, it was agreed by the Separate Article, That, *Casu quo modernus Hispaniarum Rex à Vita decederet, non relictis legitimis Descendentibus, quem Casum clementer Deus avertere velit, se Casaream Majestatem ejusve heredes ad Successionem ejusdem Domini legitime Competentem in Monarchiam Hispanicam, et ejus Regna, Provincias, Ditiones, et Jura earundum adipiscendam et asserendam, quin etiam Possessionem contra Gallos ejusque adherentes qui se huic Successioni directe vel indirecte opponere vellent, Omnibus Viribus adjuturos & in Contrarium attentantium Vim Vi repulsuros*: That is, ' That in Case the present King of Spain should die without leaving lawful Issue, which God in his Mercy forbid, they will, with all their Forces, assist his Imperial Majesty and his Heirs, in obtaining and maintaining the lawful Succession of the said Lord to the Spanish Monarchy, with all the Kingdoms, Provinces, Lordships, and Rights thereunto belonging; as also the Possession thereof against the French and their Adherents, who may oppose the said Succession, directly, or indirectly; and that they will repel Force by Force, in case any Attempts be made to the contrary.

The French King having found Means to disarm, and by the Peace of Ryswick to divide the Allies, the latter were soon sensible of the Fault they had committed; and the Power of France appear'd so Exorbitant, that they thought themselves under a Necessity of consenting to a Treaty of Partition. However, the Parliament of England did not approve that Treaty; being of Opinion, that the very same Motives upon which it was made, ought rather to hinder the making of it; and that 'twas better to hazard all, than to consent to such Accession of Power to the Common Enemy. Upon this Foundation they attack'd the four Lords who had either advised the late King to the said Treaty, or by his Orders, Negotiated the same. The House of Commons, by an Address of the 23d of April 1701 desir'd his

his Majesty to remove from his Councils, John Lord Somers, Edward Earl of Orford, and Charles Lord Hallifax, as also William Earl of Portland, who, said they, *Transacted those Treaties so unjust in their own Nature, and so fatal in their Consequences to England, and the Peace of Europe.* At the same time, the Commons impeach'd them of *High Crimes and Misdemeanors*; and no Body knows where this Prosecution, which was began and carried on with great Heat, would have ended, if the Differences that arose between the two Houses about their Privileges, had not put a stop to it.

Be pleas'd SIR, to take Notice, that at that time the French King was in the Height of his Power. He was already possess'd of all Spain; His Arms bore all down, without Countroul in Italy; he kept our Troops Prisoners in the Low Countries; and press'd hard upon us in the very Heart of our State. If at that time, and at so puzzling a Juncture, the House of Commons judg'd a *Partition of the Monarchy of Spain to be unjust in its own Nature, and fatal in its Consequences to England and the Peace of Europe*: What Notion may be entertain'd of it at this time, when, by God's Blessing, we are in a Condition as we suppose to wrest that whole Monarchy from the Hands of the Enemy? And when, humanly speaking, nothing but the Division of the Allies can hinder our Success? If they, who advis'd that *Partition* deserv'd then to be Prosecuted for *High Crimes and Misdemeanors*; what Judgment can now be made of those, who not only advise it, but seem to endeavour to impose on the Allies the fatal Necessity of submitting to it?

The House of Lords shew'd more Moderation than the Commons in the Prosecution of the four Impeach'd Lords; yet they declared by their Address to the King of the 14th of the same Month, that they were of Opinion, that no Peace could be safe and lasting unless the entire Monarchy of Spain were restor'd to the House of Austria: And thereupon desir'd his Majesty to enter into such an Alliance with the Emperor, as his Majesty should think convenient, pursuant to the Intent of the Treaty

Treaty of 1689, assuring his Majesty that they would heartily and effectually assist him therein.

Upon THIS PRINCIPLE, the present War was begun, and with the SAME VIEW it has been constantly carried on without Interruption, both on the Part of *England* and this State; which I can prove, and will do it presently, by the Queen's Speeches to Her Parliament, and by the Addresses of both Houses annually presented to Her Majesty from the Year 1702 to the Year 1711.

But what stronger Proof can I produce in this Matter, than the very Negotiations with the Enemy? You know that in the Conferences of the Year 1709 the Marquis de Torcy and the President Rouille offer'd themselves the Evacuation of Spain; and that the same was afterwards agreed on and stipulated by the third, fourth, and sixth of the famous Preliminary Articles of the 28th of May in the same Year. And here you may observe, that when the most Christian King broke off that Negotiation, he did not complain of any Hardship in being oblig'd to acknowledge all Right to the Monarchy of Spain to be in the Person of K. Char. and not to send any Succours to the Duke of Anjou his Grandson, but only of having no longer time than two Months allow'd to recall him, and withdraw his Troops from Spain. Nay, he declar'd, by the Answer, which on the 7th of November following, was deliver'd by the Marquis de Torcy to Monsieur Perikun, That the greatest Difficulty consisted in the 34th Article, it being impossible for the King to execute it, even altho his Majesty should sign the same; that therefore, without entring upon the Observations that might be made on the Expressions and Form of the other Articles, in suppressing the Form of the said Articles, the King would preserve the Substance thereof.

The first Article of the Project of Peace offer'd by France on the 2d of January 1710. N. S. is, in that Respect of the same Nature and Tenour; Here it is Verbatim; As for Spain; an Authentick Promise, on the King's part, to acknowledge, immediately after the Signing of the Peace, the Archduke Charles of Austria, in Quality of King of Spain, and, in general, of all the Territories

territories depending on that Monarchy, as well in the Old
 ' as New World; excepting only, the States and Coun-
 ' tries, which the King of *Portugal* and the Duke of *Sa-*
 ' *voy* have, by their Treaties concluded with the Empe-
 ' ror and his Allies, agreed to dismember; and excepting
 ' also the Places, which the Archduke has engaged to leave
 ' to the States-General of the United Provinces of the
 ' Netherlands.

' Alike Promise, not only to withdraw all the Succors
 ' his Majesty has been able to give the King his Grand-
 ' son, but also not to send him for the future any Assi-
 ' stance, to maintain himself upon the Throne, of what
 ' kind soever, directly or indirectly.

' And for a Pledge of the Performance of this Promise,
 ' his Majesty is willing to entrust the States-General
 ' with Four of his Places in *Flanders*, which he shall choose
 ' to be deliver'd into their Hands, and to be by them
 ' kept, till the Affairs of *Spain* are terminated; as Ho-
 ' stages and Security of the Word which he shall give
 ' them, not to concern himself, directly or indirectly, with
 ' the Affairs of that Monarchy.

' He will likewise promise to forbid his Subjects, under
 ' severe Penalties to list among the Troops of his Catho-
 ' lick Majesty; obliging himself to have such a strick, Re-
 ' gard to the Observation of such his Prohibition, that
 ' none shall act contrary thereto.

' His Majesty is pleas'd also to consent, that neither the
 ' Monarchy of *Spain*, nor any Part of it, shall ever be
 ' united to the Monarchy of *France*; and that no Prince,
 ' of the House of *France*, may either reign, or acquire any
 ' thing in the Extent of the Monarchy of *Spain*, by any
 ' of the Methods, which shall be all specify'd.

' The *Spanish Indies* shall be comprehended in all that
 ' shall be said with respect to the Monarchy of *Spain*, as
 ' making a principal Part thereof; and the King will pro-
 ' mise, that no Vessel of his Subjects shall go to the said
 ' *Indies*, either to traffick, or under any other Pre-
 ' tence.

' Twas upon this Foundation that the Conferences of
Gertruydenburg were afterwards set on Foot; and altho'
 by an Artifice against which the Allies were unguarded,
 the Ministers of *France* found the Secret of making the
 Proposal

Proposal of some *Dismembring* hearken'd unto, yet they never durst to insinuate the Leaving the Duke of *Anjou* in Possession of *Spain*; and they were dismiss'd without departing in the least from the Principal and IMMUTABLE FOUNDATION of all the preceeding Negotiations, to wit, the entire and absolute Restitution of the Monarchy of *Spain* to the House of *Austria*.

The Un sincere way of Proceeding of the *French* was very much resented in *England*, and the Queen spoke her thoughts of it in full Parliament, on the 15th. of November 1709. in such a manner as sufficiently shew'd her Indignation. In the Beginning of this Year, said her Majesty, our Enemies made use of all their Artifices to amuse us with false Appearances, and artful Insinuations of their Desire of Peace, in Hopes that from thence, means might be found to create some Divisions or Jealousies among the Allies: But they were entirely Disappointed in their Expectations, and such Measures were taken upon that Occasion, as made it impossible for them long to disguise their insincerity, &c.

The next Year, in the Month of December, 1710. Her Majesty open'd the Session of Parliament in the same Disposition: I shall, said She, recommend to you what is absolutely Necessary for our common Safety. The Carrying on the War in all its Parts, but particularly in *Spain*, with the utmost Vigor, is the likeliest means, with God's Blessing, to procure a safe and Honourable Peace for us, and all our Allies, whose Support and Interest I have truly at Heart, &c.

I know not what may have embarrass'd our Affairs, and rais'd the Spirits of our Enemies, since that Time: We push'd them last year, in *Savoy*, as far as Fort *Barreaux*; we finish'd the Campaign in *Catalonia*, by the glorious Raising the Siege of *Cardona*, and the Defeating of the Enemies Troops; we kept them in *Germany* as Unactive and benumm'd as if they had been Struck with *Medusa's* Head; and in the *Netherlands*, we took *Bouchain* in the Sight of their whole Army, and under their very Canon, after having penetrated into their Lines without the Loss of one Man. The Election and Coronation of the Emperor, succeeded according to our Wishes; *Hungary* is pacified; and no ill Accident has yet befallen us. We have begun the Campaign

paign in the *Netherlands* with as great Superiority as the preceeding Years. The indifferent Success of the Enterprize against the Magazines of *Arras*, and the Posts on the *Senfet*, has not hindred us from taking Post on the other side of the *Scheld*; and the beginning of the Campaign might have been Signaliz'd by the Defeat of the *French Army*, and attended by the taking of *Arras* and *Cambray*, had not the Forces been separated. Our Worst was the taking of *Quesnoy* in 13 days of open Trenches, and at the time I have the Honour to write to you, the Enemy tremble for *Landrecy* and *Maubeng*. Now I wou'd fain know, what Reasons there may be for leaving *Spain* and the *West-Indies* in the Hands of the Duke of *Anjou*; and depriving us of the Fruits of so many Victories? Is there not some PRIVATE INTEREST, some LURKING DESIGN, some Secret of State, which 'tis thought important to keep from our Knowledge?

Give me leave, SIR, to set before you a POLITICAL PROBLEM, and to ask you this Question, which of the two is to be the RULE we ought to go by, either the Opinion of the Queen and Her Parliaments from the Year 1702 to the Year 1711, or that which you have taken up since the Year 1711, and seem still to entertain?

You now will have us raise the *French Monarchy* on the Ruins of that of *Spain*; to which we answer, with the very words of the Queen in several of her Speeches, *That no safe and honourable Peace can be made for us, or our Allies till the whole Monarchy of Spain be restor'd to the House of Austria*. Are we to blame for having the same Thoughts which the Queen and her Parliament had for Ten Years together? For believing what they believ'd? For following their Maxims? And for adhering to them with Constancy and Firmness?

If at this time you have any Reasons for changing the Opinion and Views you have entertain'd so many Years, pray be so kind as to communicate them to us, that we may examine them. If the same are in Common with you and all the Allies, we shall readily acquiesce in them; you may depend upon it: But if they be

be PRIVATE MOTIVES, and INCONSISTENT with the COMMON INTEREST, you cannot take it ill if we persist to endeavour to persuade you to pursue Counsels more Honourable, and more Consonant to your Engagements.

I have dwelt longer than I thought on the Article of yielding *Spain* and the *West Indies* to the Duke of *Anjou*, nor could I do otherwise: For altho' it be not express'd in the Queen's, Speech it is however, implicitly contain'd therein, and supposes it as a main Foundation. I come now to the Examination of the Articles which Her Majesty has thought fit to mention in that Speech, according to the Order in which I have ranged them before.

As to the First,

The Apprehension, says her Majesty, that *Spain* and the *West Indies* might be united to *France*, was the chief Inducement to begin this War; and the effectual preventing of such an Union, was the Principle I laid down at the Commencement of this Treaty. Former Examples, and the late Negotiations, sufficiently shew how difficult it is to find means to accomplish this Work. Nothing is more certain than this Assertion: The bare Possibility of such an Union cast all Europe into Fears during the Negotiation of the Marriage of *Lewis XIII* with the Infanta *Mary Anne*; and *Spain*, whose Interest it was, more than of any other State, to hinder it, took such Measures as she thought necessary for that Purpose.

It was stipulated by the Contract of Marriage concluded at *Madrid* the 22d of *August* 1612, ' That all
' the Children and Descendants from the same, whether Male or Female, First Born, Second, or more
' Remote, in what Degree soever, should for ever be
' excluded from all Right of Succession to the Crown
' of *Spain*, or any of the States thereunto belonging,
' altho' they should alledge, and might alledge and pretend
that the Reasons of Publick Interest, or other Considerations upon which this Exclusion may be founded, could not take Place in Respect to their Persons, and ought not to be regarded. — And that their Majesties Meaning and Intention was that this conditional Contract should have

the Force and Vigour of a Law in their respective Dominions.

The Infanta's Renunciation follow'd three Years after, and was sign'd at *Burgos* the 15th of *October* 1615.

Three Years after that, the same was Enacted into a Law of the Kingdom in the *Cortes*, or States of *Castile*, held in the Year 1618.

Which Law was publish'd at *Madrid* on the third of *June* 1619. and is to be found in the Second Volume of *Nueva Receptacion Lib. 5. Tit. 7. Leg. 12.* But because it may happen that you have not the Book by you; and I do not remember that I ever saw it quoted in any of the Treatises that have been written on this Matter, I send it you here Enclos'd, at length. See the Appendix.

The same Precautions were taken at the Marriage of *Lewis XIV.* with the Infanta *Maria Theresa*, Daughter to King *Philip IV.*

The Contract of Marriage signed in the Isle of *Pheasants* on the Seventh of *November* 1659, contains the same Stipulations and Renunciations that were inserted in that of *Lewis XIII.* with the Infanta *Mary Anne.*

Besides which they are Corroborated and Confirm'd by the Treaty of Peace signed the same Day, the 33d Article whereof imports, That altho it be separate, it shall have the same Force and Vigor as the present Treaty of Peace, as being the principal Part thereof, and the most valuable Pledge for its greater Security and Duration.

Which Treaty, with the Contract of Marriage was ratified at *Thoulouse* the 24th of *November* 1659.

The Infanta's particular and special Renunciation follow'd on the 2d of *June* 1660, with this Oath. *I Solemnly Swear, said She, by the Gospels contain'd in this Mass-Book, on which I lay my Right Hand, that I shall Keep, Maintain, and Perform the same in all its Points, and in all Places; and that I shall not demand a Dispensation from this Oath of our Holy Father, nor of the Holy Apostolick See, nor of his Legate, nor of any other Dignity that might grant me the same, &c.*

be PRIVATE MOTIVES, and INCONSISTENT with the COMMON INTEREST, you cannot take it ill if we persist to endeavour to persuade you to pursue Counsels more Honourable, and more Consonant to your Engagements.

I have dwelt longer than I thought on the Article of yielding Spain and the West Indies to the Duke of Anjou, nor could I do otherwise: For altho' it be not express'd in the Queen's Speech it is however, implicitly contain'd therein, and supposes it as a main Foundation. I come now to the Examination of the Articles which Her Majesty has thought fit to mention in that Speech, according to the Order in which I have ranged them before.

As to the First,

The Apprehension, says her Majesty, that Spain and the West Indies might be united to France, was the chief Inducement to begin this War; and the effectual preventing of such an Union, was the Principle I laid down at the Commencement of this Treaty. Former Examples, and the late Negotiations, sufficiently shew how difficult it is to find means to accomplish this Work. Nothing is more certain than this Assertion: The bare Possibility of such an Union cast all Europe into Fears during the Negotiation of the Marriage of Lewis XIII with the Infanta Mary Anne; and Spain, whose Interest it was, more than of any other State, to hinder it, took such Measures as she thought necessary for that Purpose.

It was stipulated by the Contract of Marriage concluded at Madrid the 22d of August 1612, 'That all the Children and Descendants from the same, whether Male or Female, First Born, Second, or more Remote, in what Degree soever, should for ever be excluded from all Right of Succession to the Crown of Spain, or any of the States thereunto belonging, altho' they should alledge, and might alledge and pretend that the Reasons of Publick Interest, or other Considerations upon which this Exclusion may be founded, could not take Place in Respect to their Persons, and ought not to be regarded. — And that their Majesties Meaning and Intention was that this conditional Contract should have

the Force and Vigour of a Law in their respective Dominions.

The Infanta's Renunciation follow'd three Years after, and was sign'd at *Burgos* the 15th of *October* 1615.

Three Years after that, the same was Enacted into a Law of the Kingdom in the *Cortes*, or States of *Castile*, held in the Year 1618.

Which Law was publish'd at *Madrid* on the third of *June* 1619. and is to be found in the Second Volume of *Nueva Recopilacion* Lib. 5. Tit. 7. Leg. 12. But because it may happen that you have not the Book by you; and I do not remember that I ever saw it quoted in any of the Treatises that have been written on this Matter, I send it you here Enclos'd, at length.

See the Appendix.

The same Precautions were taken at the Marriage of *Lewis XIV.* with the Infanta *Maria Theresa*, Daughter to King *Philip IV.*

The Contract of Marriage signed in the Isle of *Pheasants* on the Seventh of *November* 1659, contains the same Stipulations and Renunciations that were inserted in that of *Lewis XIII.* with the Infanta *Mary Anne*.

Besides which they are Corroborated and Confirm'd by the Treaty of Peace signed the same Day, the 33d Article whereof imports, That altho it be separate, it shall have the same Force and Vigor as the present Treaty of Peace, as being the principal Part thereof, and the most valuable Pledge for its greater Security and Duration.

Which Treaty, with the Contract of Marriage was ratified at *Tboulouse* the 24th of *November* 1659.

The Infanta's particular and special Renunciation follow'd on the 2d of *June* 1660, with this Oath. I Solemnly Swear, said She, by the Gospels contain'd in this Mass-Book, on which I lay my Right Hand, that I shall Keep, Maintain, and Perform the same in all its Points, and in all Places; and that I shall not demand a Dispensation from this Oath of our Holy Father, nor of the Holy Apostolick See, nor of his Legate, nor of any other Dignity that might grant me the same, &c.

The like, and even more Solemn Oath was taken by the Most Christian King, personally on the Sixth of the same Month of June 1660. These are the Words of the Form of the Oath, of which we have an Extract in the *History of the French Monarchy, in the Reign of Lewis XIV. Tom. II. pag 442 of the Paris Edition in Octavo, Printed for Cardin. Bofogae. The Two Kings swore, and Cardinal Mazarin held the Book of the Gospels on which they laid their Hands. On the Cross, the Holy Gospels, and the Canon of the Holy Mass, on which he laid his Hands.*

After which followed the usual, Enrollings or Registerings.

In the Parliament of Paris on the 27th of July 1660.

At the Court of Aids, in open Court, the 4th of August.

And in the Chamber of Accompts, or Exchequer, the 7th of the same Month and Year.

All these Precautions, the most Solemn, the most Binding, and the most Sacred that Men can either devise, or practise, did not, however, hinder the most Christian King from declaring in the Year 1666, *That he look'd upon the RENUNCIATION as an ACT OF NO FORCE*; nor from taking up Arms in the Year 1667 for the Maintenance, of the Pretensions which he thought were already devolv'd to the Queen his Consort; nor, at last, from seizing the whole Monarchy of Spain after the Death of King Charles II.

It is therefore most certain, *That former Examples, and the late Negotiations, sufficiently shew, how difficult it is to find lawful Means effectual in themselves, to oppose the Violent Desire which the French have to unite the Crown of Spain to their own.*

Things being incontestably so, how comes it to pass, *That the Duke of Anjou's Renunciation to the Crown of France, is now proposed to us, as a Solid Expedient whereby France and Spain will be more effectually divided than ever? Is it because it is offer'd, That they shall be ratify'd in the most Strong and Solemn Manner, both in France and Spain? We have just now instanc'd in Two of the same Nature, ratified in the same Man-*

ner;

ner; Enrolled in all the Courts of Judicature; inserted, Word by Word, in a famous Treaty of Peace; Enacted as a Law in Both Kingdoms; and in short, confirm'd by the Sacredness of a Solemn Oath; Which notwithstanding all this, were *violated and infringed* not many Years after they were made. What Reason can induce any one to believe, That this RENUNCIATION shall be better observ'd than all the former? *These Two Kingdoms*, we are told, as well as all the other Powers engaged in the present War, shall be Guarantees to the same: By those Two Kingdoms, we must undoubtedly understand *France and Spain*, for there can be no Equivocation in the Case, But in what Form will those two Kingdoms give us that Guaranty? Will it be by Registrings in Supreme Courts of Justice, and by Enacting the Duke of *Anjou's* Renunciation into a perpetual and irrevocable Law? The very same thing was done with respect to the Infanta *Maria Theresa*, and over and above that, the Two Kings took a Solemn Oath in Confirmation of that Renunciation; which, nevertheless, was of no Effect: And we are now *actually in War* because the *French* will shew no Regard to it.

Besides, when the Duke of *Anjou* is once gone over to *France*, and has taken upon him the Government, what shall become of the Guaranty of the Two Kingdoms, and to whom shall we make Application to demand it? Can it ever enter our Thoughts, that at the Prospect of that Prince's designing to annex the Crown of *Spain* to that of *France*, the *French* Nation shall be so far provoked as immediately to take up Arms to prevent that Misfortune? And as for the *Spaniards*, can it be imagin'd, That they should shake off the Indolence in which they have lived so long, and make War against their King, merely to hinder him from becoming also King of *France*?

Their King? say you, that's an improper Expression — He should be no longer their King, if he should break the Renunciation. I understand you: — Your Meaning is; That the same will be made a Condition *sine qua non*, in the ensuing Treaty of Peace, and

and that he shall be obliged to make choice of either of the Two Crowns. Well! if that be so; to what Purpose this *New Renunciation*, I pray? Does not King *Charles II's* Will and Testament, which is all the Title he claims, contain the same Condition? Does it not oblige him to make the same Choice? 'Twill therefore be sufficient to confirm it by the Treaty; and if need be, to corroborate it by Private Acts, which the the Most Christian King and the Duke of *Anjou* shall give, either Jointly or Separately. Such an Act would be more specious and plausible than a plain and absolute *Renunciation*; which Formality is by this Time so worn out, that every Body sees through it.

The Question it seems, has been given to understand, that in *France* the Persons to whom that Succession is to belong, will be ready and powerful enough to vindicate their own Right: As for Ready, I believe it: Men are always ready enough to take upon them the Weight of a Crown; but as for Powerful enough, it may be Matter of Doubt; and for my Part, I cannot see how those Persons should come by that Power that is ascrib'd to them. They have neither Dominions, Subjects, Soldiers, nor Money to raise Armies; and, methinks, 'tis in these Things that the Power of Princes consists. I know some Ministers have beforehand answer'd this Objection, by saying, That *tho' they be not powerful, yet they are beloved, and in great Credit and Esteem*, and that the one is as good as t'other. Above all they cry up the great Valour of the Duke of *Orleans*, his Numerous Friends, and his firm Resolution to maintain his Right, if the Case happen; upon which Topick we are told a great many fine Things. But, certainly, a Man must be a great Stranger to *France*, to believe, That when the Succession to the Crown comes to be in Question, the Duke of *Orleans*, then Nephew to the late deceased King, may be supported by any considerable Party, against a Prince his Grand Son, or Great Grand Son; and that the *French* Nation may, in his Favour, be dispos'd to prefer in him the *Collateral* before the *Direct Line*. Those Persons therefore would be obliged to have
 Recourse

Recourse to the *Powers engaged in the present War*, and to sue to them for Support, so that we should become the *Guarantees* of those who ought to be Ours.

A moderate insight into the Constitution of *France* may suffice to inform me, how little it favours the Renunciation of the Males. The Civilian *Aubery*, famous for his Writings on the Rights of the Crown of *France*, carries things so far as to assert, that a King cannot validly renounce the Crown, and that his Subjects, on the other Hand, cannot Exclude him from it, upon any Account whatever. He maintains, that the necessary Union of the Head with the other Parts, and the Fundamental Maxims of the State do not allow, upon any Account or Pretence whatsoever, either the Subjects or Princes to make a Divorce, and Separate one from the other. The second Race of our Kings, adds he, affords us an instance of it in the Person of *Lewis the Debonair*. Some Factious Prelates being corrupted either by the Bribes or Promises of *Lothair* his Eldest Son, and Abusing his easie Nature, made him, by their feign'd and interested Remonstrances, conceive so great a Horror for his past Offences, that he readily submitted to whatever they were pleas'd to impose upon him. — He ungirded himself of his Sword, and renounc'd, in the most Solemn manner that could be, the Sovereignty and Right which were inherent in him by Birth. The *French* who, above all other Nations, affect PASSIVE (or as the *French* has it BLIND) OBEDIENCE to their Princes, Signaliz'd on this Occasion their LOYALTY by their DISOBEDIENCE, or at least by the Courageous Resistance with which they oppos'd the Execution of an Act so prejudicial to the Monarchy. They thought they could not acquiesce to that RENUNCIATION injurious to the Royal Character, without involving themselves in Guilt, in Authorizing by so imprudent a Submission, so DETESTABLE A CRIME. The whole State bearing a Part in the Injury that had been offer'd to the Head, felt Extraordinary Commotions and Distractions, and like a Ship toss'd in a Storm, which impatiently expects the Return of the first Star (the *Sun*) it could not recover its former Tranquility, till the lawful Sovereign appear'd at *St. Demy's*

‘with the *Regalia*, and all the Pomp that ought to attend Majesty. There are even those who heighten the Nobleness and Splendor of this Action by a Miracle, assuring us, that it not only restored Quiet in the Country, but also Calmness and Serenity in the Air, &c. See *Aubery's Droits du Roy sur l' Empire Lib. 1 Chap. 2.*

King Francis I. upon his Return from Spain, had also a mind to Abdicate the Crown in favour of Francis the Dauphin, his Eldest Son, upon a surmise that that Prince might with better Grace than himself, rescind the Treaty of *Madrid*. He even caus'd an Edict to be made for that Purpose, which was read in Parliament; but adds the same *Aubery*, Chap. 3. that Assembly would not so much as deliberate upon an Edict so manifestly contrary to the Fundamental Laws and Constitution of the State; but contented themselves to Order, that an Answer should be return'd to the King's Remonstrances, and that at the same Time it should be represented to him, that he neither was, nor in any manner could be bound by the Treaty of *Madrid*.

From these two Instances, which relate only to a PERSONAL ABDICATION, one may draw the Premises of an Argument *a Fortiori*, and conclude from thence, that if, according to the Constitution of the Kingdom, a King of France cannot renounce the Crown for himself, much less can he do it for his Sons, or Grandsons that are living, and Under-Age. And indeed this last Assertion is now so generally and so unanimously acknowledg'd in France, that I don't believe there is one Man that dissents from it. They look upon the Crown there, as a Perpetual Trust, the keeping of which is Entail'd, and transmitted from Eldest Son to Eldest Son by Representation; nor can the Acts or Contracts of the One ever Prejudice or foreclose the Right of the Other. If Entails, (says *Aubery*, in the same Treatise, Book I. Chap. 3.) were introduc'd by the Laws to preserve the most Illustrious and most Powerful Families in their Splendor, it must not seem strange, that, at all times they were in Force, to maintain Monarchies in their first and most flourishing Condition. The Crown and Scepter were ever look'd upon as a Real and Sacred trust, which Princes ought to leave entire to their Successors, and of which they

they cannot in any manner Dispose. And the Rigor of this General Law is the more supportable, in that it favors those very Persons, whose Power it seems to restrain.

The long Manifesto publish'd in the Year, 1667, with the Title of *A Treatise concerning the Rights of the most Christian Queen*, is yet more express in the matter, nor can I forbear quoting some Passages out of it, because having been drawn up and Publish'd by the King's Order, the Contents of it ought to be look'd upon, as *His Majesty's Declar'd and Avow'd Sentiments* in the Matter of RENUNCIATIONS; and as a standing Explanation of the Laws and Constitution of the Kingdom. All things unite, says that Treatise pag. 138. to Combat and oppose those sorts of Renunciations. They are inconsistent and incomparable with Nature; for Kingdoms not devolving to the Nearest in Blood by Inheritance, but by Birth Right, none can Renounce them by any Act or Deed whatsoever, because Birth Right is the Right of Nature, inseparable from the Person, inalienable and not to be yielded either by Renunciation or any other way. Justice opposes it likewise, because the Succession to Kingdoms, is a Right altogether publick, which in particular concerns the Subjects, God not having given Crowns to Kings for the sake of themselves, but rather for the Governing and Ordering of the People, who cannot be without a Head; so that private Contracts being never allow'd against what concerns the Publick Right, nothing can be more Invalid or Null, by all these Laws, then such Renunciations. Nor can they stand with Religion neither, since the Right of the Crown and Scepter is not like those Venal Possessions that are traded with, and are Subject to all the Vicissitudes occasion'd by the Interest and inconstancy of Private Men; but a kind of Priesthood, Vocation, and Sacred Mission, which forms a Spiritual, Conjugal and Indissoluble Tie of the Prince or Princess with his or her State; and which like a precious Particle of the Deity, which did flow from Heaven to the Earth, for ever preserves the immutableness of its Principle, having no other Sphere of Activity than that of Heaven, where the Hand of God has fix'd it; that is, the Person in which he has fasten'd that Sovereignty which is a Part of himself.

As it is foreign to my present Purpose to Combate the *French Doctrine* in the Matter of *Renunciations* to Crowns, I leave all that pompous Nonsense untouch'd, without troubling my self either with Confuting it, or drawing such Inferences as naturally Result from it, against the Duke of *Anjou*.

My Design was only to shew what this Doctrine is, and methinks you ought to be contented with the Proofs I have already produc'd about it. However, here is another which may serve as a *Corollary* to the rest, and which besides has something peculiar to its self, since it shews, that in the Case of *Renunciations* the *French* hold it for a Maxim, that an Oath is invalid, and no ways Obligatory. I shall quote the same Author. After these Considerations, says he, it is almost needless to Answer the Objection of the OATH which was exacted from their most Christian Majesties, under colour of which it is maintain'd, that altho' the *Renunciations* and *Ratifications* were null, nevertheless having Sworn that they would execute the same, their Religion is thereby engaged, and cannot be dispens'd with: For who but knows, that one of the first Maxims of the Canon Law is, that an Oath is not a Tie of Iniquity, which may exact the Performance of an unjust thing. It is the Minister of Truth, not of its contrary, and is never Subservient to a Surprise. It would be a strange Disorder indeed, if the Conventions of Men were no longer measured by the essential Principles of Law and Reason, but by the FOREIGN and ACCIDENTAL Clause of an OATH, of which Dishonesty would never fail to make a Sanctuary against the Authority of the Laws. Therefore the most pious Emperors among the Ancients were the first that condemn'd all those VAIN SCRUPLES, by which Injustice got above all Rules, when they destroy'd the Validity of an Oath in unjust things. The Ancient Civil Law is full of the like Decisions, &c.

Things being thus, how was it possible, that the Ministers of *France* made no Difficulty to propose to the Queen of *Great Britain*, the Duke of *Anjou's* Renunciation, as a sufficient Means to remove the just Apprehensions we have of a future Union of the two Crowns? How came it to pass, that so clear Sighted a Princess could

could think to find in it a Security for effectually preventing such an Union; and that on the contrary, she has not perceiv'd, that instead of preventing it, it will rather encrease and bring nearer the Danger of; by securing the Crown of Spain to a Prince, who may, this Day or to Morrow become King of France?

If the Fear of this Union was a sufficient Reason for us to take up Arms, at a time when the Duke and Dutchess of Burgundy were Alive, Young and Healthy, and seem'd to promise a numerous Issue to France, what Counsels ought we to pursue now, when, that Fear being abundantly justify'd by the DEATH of THREE DAUPHINS in less than one Year, we see nothing between the Duke of Anjou and the Crown of France, but a Child two Years Old, of so tender a Constitution, so Weak, and so Sickly, that the French themselves despair of ever seeing him reach a Marriageable Age.

But let us suppose, That the Duke of Anjou, being a more Religious Observer of this, than he was of his Grand-Mothers Renunciation, should refuse the Crown of France, when the Succession happens to be open in his Favour, and be willing to content himself with that of Spain, would the two Princes his Sons do the same? Is it not incontestably true, that they have actually an Inherent Right to it by their Birth, which his Renunciation cannot prejudice or cancell?

I'd fain ask the Ministers of France, what they think themselves of this Renunciation, and whether they look upon it as Valid, or Invalid? If they answer it is Valid from that Moment we look upon it as useless to us; That of Queen Maria Theresa does our Business;— It puts an End to all our Disputes, and the Monarchy of Spain must be restor'd to the House of Austria. If they own that 'tis not valid, why is it offer'd to us as if it were so? To us, I say, who neither Demanded, nor Desir'd it? Is this way of proceeding Consonant to good Faith? Can this be said, to promise, with a firm Resolution to perform? Under what Name are such sort of Deeds known in the Law of Nations, the Common Law, and the Civil Law? But there's no need to wait for any Body's Answer in such a clear Case. The Law of France, does not in this Respect, differ from

from the Law of other Nations ; But preserves to all the Successors to the Crown, in what Degree soever they be, the Right that to them belongs by Birth ; and suffers not the Fathers, Grand Fathers, or Uncles, to exclude from it, under what Pretence soever, their Children, Grand Children, or Nephews already born. We have in this matter the Instance of *Charles VI.* who in Favour of *Henry* — King of England, disinherited the Dauphin his Son ; and that of *Charles VII.* who went about to prefer *Charles* before *Lewis XI.* his Elder Brother, but could not Succeed in it. We have also the unanimous Sense and Opinion of all who have written about this Matter. It is held for an inviolable Maxim, says Councillor *Charles le Bretain* in his Treatise of the King's Sovereignty, Lib. 1. Cap. 4. That the Kings themselves cannot disinherit their Eldest Sons, nor those that ought to succeed them, the Crown being theirs by Birth-right, and by Right of Inheritance, as was decided in behalf of the Dauphin *Charles*, when his Father *Charles VI.* cut him off of the Succession to the Kingdom. The President *Foucher* treating of the Royal Succession in his Original * of the Dignities and Magistrates of France, Book 1. Chap. 3. says also ; That the Right of Succession is so inherent in the Eldest Son of the House of France, that his Grand-son excludes the Uncle, that the Blessing of Primogeniture (or First-Born) may remain as long as possible in the direct Line, and that the Descendants of the Eldest Serve not their Fathers younger Brother ; as it should happen if the Uncle excluded the Nephew. The Councillor *Peter de Lommeau* is of the same Opinion in his Treatise of the Royal Rights. Chap. 6. By the Law, says he, and general Custom of France, observ'd in the Kingdom since its first Settlement, the Crown of France devolves to the next Male of the Royal Blood, who seizes the Kingdom and takes Possession thereof immediately upon the Decease of the last King, so that the Kingdom of France falls to the eldest Son alone. — The eldest Son is the Son first born and begot by the King altho' he was born before his Father was King ; for he ever excludes as eldest Son, the younger Sons born since the Kingship

* Origens des Dignitez & Magistrats de France.

Kingship of the Father — Likewise the eldest Son's Son succeeds to the Crown, to the exclusion of the Uncles, and the King dying without Issue, the Descendant of the first in Eldership, altho' he be the youngest, and remote by fifty Degrees, succeeds to the Kingdom. He adds, That the Kings of France are not Heirs to the Crown; and that the Succession of the Kingdom of France, is neither Hereditary nor Paternal, but Statuary; so that the Kings of France are barely Successors to the Crown by Vertue of the Law and general Custom of France. — Pray, apply these Rules and Maxims to the two Princes Sons of the Duke of *Anjou*, in Case their Father should for himself and them renounce the Crown of *France*, in Favour of the Duke of *Berry*, or the Duke of *Orleans*, on whose Genius some People seem to depend so much, and draw your self the Consequence, with Respect to the Security which some pretend it will be to us, for preventing the Union of *France* and *Spain*.

But here an Objection occurs that must not be left unanswer'd: Some, perhaps, will say, That the Duke of *Anjou*, by his perpetual Settlement in *Spain*, and the Princes his Sons, by being born out of the Kingdom, would be *Aliens*, and as such incapable of succeeding to the Crown of *France*, unless they had been Capacitated thereto by the most Christian King's Letters Patent of the Month of *December* 1700, and Register'd in Parliament the first of *February* 1701 N. S. To which purpose all the common Places of the Laws about *Aliens* may be instanc'd in, and fortify'd by the Example of *Henry* Duke of *Anjou*, who according to *Du Puy*, having been chosen King of *Poland*, receiv'd the like Letters Patent from King *Charles IX.* bearing Date the 10th of *December*, 1573. and verified in Parliament the 17th of the same Month, whereby *Charles* to cut off all manner of Occasion of Division that might be grounded on their, and their Childrens Absence, and their Residence in a foreign Country, according to the Laws of the Kingdom, declared, that in case he should die without Issue Male, his said Brother the King of *Poland*, as nearest in Blood to the Crown, should be the True and Lawful Heir thereto, notwithstanding his being then absent

See his Works
in the Memo-
rial about A-
liens

absent, and residing out of the Kingdom; and that in Default of the said King of Poland, his Male Heirs, born in Lawful Marriage, should come to the Succession, notwithstanding their being born and residing out of the Kingdom. And in Default of the said Heirs, then the Duke of Alençon his other Brother, and after him his Male Heirs, notwithstanding their being absent and dwelling out of the Kingdom, &c. From whence it may be inferr'd, That the Renunciation which the French now offer us would have a double Force, in that it should put again the Duke of Anjou and his Children in their Condition of *Aliens*, out of which they were drawn by the King's Letters Patent only; so that instead of having a Claim to the Crown, by the Law of the Kingdom, they should stand excluded by that very Law. — But to this I answer:

First, That the Right of *Escheat*, or of Succession to the Estate of an *Alien*, is odious, new, and introduced into *France*, about Two or Three Hundred Years ago, with no other View than to Enrich the King's Treasury, at the Expence of Foreigners. It was unknown before the Reign of King *Charles VIII*; It is not founded upon any Law; neither is the use of it yet well fix'd or determin'd.

Secondly, it does not appear, That that Right whatever it be, can exclude them from the Crown, to whom it devolves by Proximity of Blood. If it did, it would, in that Respect, render their Condition worse than that of Ambassadors, who are exempted from it by their Employments, as well as the *Hollanders* and *Switzers* by their Treaties. Nor is there any Instance of any lawful Successor to the Crown, his being excluded upon that Score; but on the contrary, we have the Example of *Henry IV.* who being King of *Navarre*, Son to a King of *Navarre*, and Born at *Pau*, his Mother * being also of *Navarre*, came to the Crown of *France*, without having any Letters of Naturalization or any thing like. Among
all

* I mark this Circumstance, because according to Peter de Lommeau, in his Royal Rights, chap. xvi. wherein he treats about *Aliens*, Partus Sequitur Ventrem.

all the Obstacles and Difficulties which the *League* raised against him, they only objected his Religion, and never his being an *Alien*. 'Tis certain likewise, that the being an *Alien* was never objected against *Edward III.* King of England, in his Controversy with *Philip of Valois* for the Succession to the Crown of France, but only the Salick Law whereby he was excluded from it, since he had no Title but by his Mother. As for the Letters Patent of *Charles IX.* I never had a sight of them; the Extract that I gave of them before being taken *Verbatim* out of *Du Puy's* Memorial. If we had the Original Deed, we might perhaps, find in it some Expressions that would not favour the *Right of Escheat* against *Aliens*; And I am the more enclin'd to believe it, because the same *Charles IX.* acknowledges in his Letters Patent bearing Date the Thirtieth of May 1574, for the Administration of the Kingdom, That if he happen'd to die without Male Heirs, the King of Poland his most Dear and Well-beloved Brother is call'd to the Succession of this Crown, by the Laws observ'd in this Kingdom. You will find these Letters Patent at length, in *Popliniere's History of France*, Book 37. As for these of *Lewis XIV.* they are so far from proving any Thing against the Duke of *Anjou* and his Issue, as if the perpetual Settlement of the One, and the Birth of the Others out of the Kingdom made them *Aliens*, that, in my Opinion, one may infer the Contrary. We should think, * says the present King of France, speaking of the Duke of *Anjou* his Grand-Son: We should deem it a *WRONG* done him, of which we are incapable, and an irreparable *PREFUDICE* to our Kingdom, if henceforward we should look upon that Prince as a Stranger, whom we grant to the Unanimous Demand of the Spanish Nation. For these Causes, &c. it is our Will and Pleasure, that our most Dear, and most Beloved Grand-Son, the King of Spain, ever PRESERVE his Birth-Right, in the same Manner as if he made his actual Residence in our Kingdom: Thus our most Dear and most Beloved only Son the Dauphin being the true and lawful Successor

* See the Appendix.

Successor and Heir to our Crown, and Dominions, and after him our most Dear and most Beloved Grand-Son the Duke of Burgundy, if it should happen, which God forbid, that our said Grand-Son the Duke of Burgundy should die without Issue Male, or that his Children, born in lawful Marriage, should die before him, or that the said Male Issue leave behind them no Male Children born in lawful Marriage; in such a Case our said Grand-Son the King of Spain, by Virtue of his Birth-Right, shall be the True and Lawful Successor to our Crown and Dominions, notwithstanding his being then absent, and residing out of our said Kingdom; and immediately after his Decedse, his Male Heirs begotten in Lawful Marriage, shall come to the said Succession, notwithstanding their being born, and residing out of our said Kingdom; it being our Pleasure that for the Causes abovementioned, our said Grand-Son the King of Spain, and his Male Issue be not deem'd and reputed less capable and able to come to the said Succession, or others that may revolve to them in our said Kingdom. Now, in my Opinion, these Letters Patent are couch'd in such a Manner, That the King's Intention seems to have been, not to restore to the Duke of Anjou a Right he had lost, but only to preserve for him safe and entire those he had still, according to which Meaning the said Letters Patent ought to be look'd upon only as a bare Precaution at Law *ad Conservandum*, to preserve; and not as our efficient and necessary Deed *ad Habilitandum*, to Capacitate.

Thirdly, It is true that this Clause, having, for that purpose, so far forth as need is, or shall be, capacitated and dispensed with them, as we capacitate, and dispense with them, by these said Presents, seems more agreeable to a Deed of *Habilitation*, than to a Deed of *Conservation*; but all that can be fairly inferr'd from it is, That the Case is doubtful. Now, where there is Room for Doubt, there's Room also for Setting up a Claim; and if there be Room for a Claim, all the Securities of the Allies against the future Union of the Two Crowns vanishes out of Sight, and the Danger they fear'd still remains the same.

Fourthly,

Fourthly, Take it which way you please, 'tis uncontestably certain, That the most Christian King's Letters Patent have either restor'd or preserv'd to the Duke of *Anjou* the same Right of Succession to the Crown of *France*, which belong'd to him before he went into *Spain*; and that thereby his Sons are actually in Possession of the same Right, as effectually as if they were born, and resident in the Kingdom of *France*. Now, we have before evinc'd, That the Renunciation in what Form soever it be conceived, cannot Prejudice their Rights; from whence it follows, That with respect to them, it would be null and void, and would bring no Security to us.

Fifthly, If it be true, which no Body can doubt of, that the Letters Patent of the most Christian King, did fully either restore to, or maintain the Duke of *Anjou* in his Rights of Succession, so that nothing can be a further Let or Hindrance to him, except only the Renunciation he may make, it follows that the Right of Escheat against the Succession of *Aliens*, is in this Matter of no Consideration, so that we cannot draw from it any SHADOW of SECURITY.

As to the Second ARTICLE.

About Spain and the West-Indies being left in the Hands of the Duke of Anjou.

It appears to me that the Principal View of those that drew up this Article, was thereby to procure the Repose and Safety of *Europe*; which Design is certainly very Commendable: But yet it has rais'd in me a Scruple, which I will propose to you, by way of Problem, *viz.*

If it is thought, or believ'd, That the Offer'd Renunciation being made, a Prince of the House of *Bourbon* can at present, without any Danger for the Liberty of *Europe*, fill the Throne of *Spain* and the *West Indies*, and that by that Means *France* and *Spain* will be more effectually divided than ever; of what use can be to us the Precaution which is taken by this Article, to exclude for ever, for the future, the rest of that same House?

Et

Et Contra:

If it be true, That *Spain* can never devolve to any Prince of the House of *Bourbon*, without endangering the Liberty of *Europe*, notwithstanding any Renunciation whatsoever; why is *Spain* now given to a Prince of that House, who, next the Dauphin, is Presumptive Heir to the Crown of *France*?

If Her Majesty's Speech does not mention the Successor which the Author of this Project defin'd for the Crown of *Spain*, in case the Duke of *Anjou's* Line come to fail; and I shall not enquire here who he may be. It seems nevertheless that this *Mental Reservation* was not altogether without Design. It may flatter the Ambition of more than one Prince among the Allies, and at the same Time, create and foment Division between them. But 'twould be impious to their Wildom to believe, That they will be affected by so distant Hopes, the Effect of which would entirely depend on the Will, Disinterestedness, and *BONA FIDE* of *France*.

*As to the Third ARTICLE,
About the Barrier of the Empire.*

This Article, express'd in other Terms, imports, That *Strasburgh*, *Hunningen*, *New Brisac*, the Imperial Towns, and all that *France* has usurp'd in *Alsace*, must be left to that Crown; contrary to the Peace of *Munster*, restored and laid down as a Foundation in the Third Article of the Treaty of *Ryswick*: That *France* must remain possess'd of the True Barrier of the Empire, to enable Her, First, To shut up the Duke of *Lorraine* within his Territories, as it were in a Prison; Secondly, To keep the Electorates of the *Rhine* in perpetual Awe and Dependance; Thirdly, To penetrate, whenever she shall think fit, into the Heart of *Germany*. *Strasburg*, on the one side, opens a direct Road to *Spires*, *Wormes*, *Mentz*, and from thence into the Dutchy of *Berg*, and Bishoprick of *Munster*; And, on the other side, it leads directly into the Country of *Baden*, the Country of *Wirtemberg*, *Suabia*, and *Bavaria*, as far as the *Danube*, by the Favour of which River

one may reach *Vienna*. For all which, what happen'd in the War of Thirty Years, and in the Years 1688, 1689, 1703, and 1704, will be my Vouchers. History will inform you of the former, and as for the latter Events they are so fresh in our Memories, that sure they cannot yet have escaped Yours. It is but too true that there are People in *England* who are altogether unconcern'd as to the Affairs of *Germany*; but 'tis no less true, on the other Hand, that Her *Britannick* Majesty is under Engagements that will not suffer her to look upon them with Indifference. Pray, cast your Eyes on the Eighth and Ninth Articles of the Association of *Nordlingen*; concluded on the 22d. of *March* 1702; accepted and ratified by Her *Britannick* Majesty on the 26th of *June* in the same Year. In this Convention the Circles stipulate, *Ut, inter alia, præprimis etiam Redintegrationis superiorum Imperii Circularum mediante Restitutione tot ab eis avulsorum Commembrorum, Civitatum, Terrarumque in pristinum Statum & Jura quo ante avulsionem ab Imperio gavisæ unt, Cura Ratioque habeatur, nullumque mediorum ad eam obtineudam conducentium omittatur: proptereaque separatos inire Tractatus fas non sit, sed ut de pace conjunctim tractetur, eaque non aliter nisi obrenta prius in quantum possibile Redintegratione supra memoratorum Circularum, & donec ad minimum securitati associatorum Circularum omni meliori quo fieri protest & tutiori quam hætenus modo satis superque prospectum fuerit concludatur*; That is, ' That Care be taken, among other Things, and in the first Place, that the Upper Circles of the Empire, be restor'd to their former State and Rights, and to the Members, Cities, and Territories theretofore thereunto belonging; and that no means conducing thereto be omitted; That therefore it shall not be Lawful to enter into any SEPERATE TREATIES, but that the Peace shall be Treated JOINTLY; tho' not before the Restitution of the Premises, as far as possible, be first obtain'd, and, at least, not till the Safety of the said Associated Circles be better provided for, and secured, than hitherto? All which Conditions were agreed to and approved by the Queen of *Great Britain*, with a Promise, upon the Royal

C

Faith,

Faith, religiously and inviolably to observe the same: In Verbo Regio promittentes, these are the very Words of the Ratification, Nos omnia & singula quæ in Conditionibus prædictis Continentur, Sancte Observare & præstare velle, neque pati, quantum in vobis est, ut a quopiam violentur, aut ullo modo isdem contraveniatur.

These Engagements deserve the more serious Regard, in that the Associated Circles especially those of *Suabia* and *Franconia*, and in particular the Brave Duke of *Wirtembergh*, have born, on that side, the heaviest Burden of the War, and have always generously stood in the Gap, in order to stop the Enemies Enterprizes. So that we cannot, without Ingratitude, forget their Concerns in a Treaty of Peace, who have so well deserv'd of the Common Cause during the War. Don't tell me, that I speak here according to the Interest of *Holland*: I know there is a particular and indispensable Relation between our Security and that of the Empire, and that the one cannot Subsist without the other; But I know likewise that you are concern'd in that Security almost as much as we, tho' not so directly. Your Repose depends on that of *Europe*; and it is impossible *Europe* should enjoy Peace, while *France* shall Domineer and commit Hostilities in *Germany*, and lay waste the Territories of our best Friends and Allies, the Circles of the Upper and Lower *Rhine*, *Franconia*, *Suabia*, and *Westphalia*.

As to the Fourth ARTICLE.

About the Emperors share of the Spanish Monarchy; and the Reserve relating to Sicily.

At the sight of the small share which in this Article is design'd for the Emperor, one can hardly forbear to put these Questions:

First, *Whether the Emperor cannot with Justice claim more?*

Secondly, *Whether the Queen of Great Britain's Engagements with Her Allies go no farther?*

Thirdly, *And whether the Interest of the Common Cause is thereby effectually secured?*

First

First Question.

The First Question is not difficult to be resolv'd: So many Writings have already proved and demonstrated his Imperial Majesty's Title to the Whole Monarchy of *Spain*, without Exception, that no Man, who is not altogether a Stranger to the Affairs of *Europe*, can be ignorant of it, or call it in Question. Nevertheless, since the Occasion seems to require it, I shall explain it here in few Words. And because the best Arguments in this Matter are such as are founded on the Right of the Blood. I have taken Care to draw a *Genealogical Table*, or Pedigree, of all the Persons that Descend from *Philip II.* and who, upon that Account, can, or might one Day, claim that Succession; They are placed therein according to the Order and Rank that Nature gives them.

By this Table which I send you here * enclos'd, you will see, that after the Death of *Charles II.* King of *Spain*, *Maria Theresa* the eldest Infanta, was the next Successor, and after her, those that descended from her in this Order, 1. *Lewis Dauphin*; 2. *Lewis Duke of Burgundy*; 3. *N. Duke of Anjou* the present Dauphin; 4. *Philip Duke of Anjou*; 5. N. — *Pretended Prince of Asturias*; 6. N. — *Pretended Infanta of Spain*; and in the last Place, N. — *Duke of Berry*; But that all these stand excluded by the Renunciation of *Maria Theresa* their Mother, Grand Mother, and Great Grand Mother.

You will likewise observe, that by the Exclusion of *Maria Theresa* and her Issue, the Right of Succession devolv'd to *Margarita Theresa* the younger Infanta, and from her to *Maria Antonietta Arch-Duchess*, who might have transmitted it to *Joseph Ferdinand*, Electoral Prince of *Bavaria* her Son, if the Renunciation she made at her Marriage had not hinder'd it.

This second Line being thus excluded, and extinct besides, by the Decease of *Joseph Ferdinand*, in the

* See the Appendix.

Year 1699, the Right of Succession devolves to the Infanta *Anne*, eldest Daughter of *Philip III.* and in default of her, by Representation to all her Issue and Descendants in this Order, 1. *Lewis XIV.* King of *France*; 2. *Lewis* Dauphin his Son; 3. *Lewis* Duke of *Burgundy*; 4. N. Duke of *Anjou*, now Dauphin; 5. *Philip* Duke of *Anjou*; 6. N. pretended Prince of *Asturias*; 7. N. pretended Infante of *Spain*; 8. N. Duke of *Berry*; 9. *Philip* of *France*; 10. *Philip* Duke of *Orleans*; 11. *Lewis* Duke of *Chartres*; 12. *Charlotte* *Eg*le *Mademoiselle de Valois*; 13. N. *Mademoiselle de Montpensier*; *Anne* of *Orleans* Dutcheis of *Savoy*; 15. *Philip Joseph* Prince of *Piedmont*; 16. N. Duke of *Aosta*; 17. *Maria Adeleida* Dutcheis of *Burgundy*; 18. *Maria Louisa* Dutcheis of *Anjou*. But all these Persons being likewise excluded by the *Renunciation* of the Infanta *Anna*, from whom they descend, all the Right of Succession naturally and necessarily devolves to *MARIA* second Daughter of *Philip III.* and to those of her Line, who are *Leopold* 1. Emperor; 2. *Joseph* King of the *Romans* his Eldest Son, and late Emperor; 3. *Charles* Arch Duke his second Son, the present Emperor. But here we find two *Renunciations* one of *Leopold*, the other of *Joseph*, both in favour of *Charles*, who therefore, even in their Life time, receiv'd and enjoy'd all the Right to the Monarchy of *Spain*.

As for the Line of the Infanta *Catharina*, the same Genealogical Table shews, that her Turn in the Succession comes next after the Line of *Maria*, and that the Right thereof directly devolves to the present DUKE of *SAVOY*, and his Issue Male; for as to his Daughters they have likewise renounc'd; then successively, and by Degrees to the particular Lines 1. of *Emanuel Philibert*, Prince of *Carignan*; 2. of *Eugene Maurice* Count of *Soissons*; 3. of *Louisa Christina* Princess of *Baden*; 4. of *Mary de Gonzague* Dutcheis of *Rethelois*; 5. of *Leonora de Gonzague*, Empress; 6. and in the last Place of *Isabella* of *Savoy*, Dutcheis of *Modena*.

This Gradation is so Congruous to Order, that I dare say no Man will offer to contradict it: To which if you add the lawful and necessary Exclusion of all the Princesses

Princesses that have renounc'd, his Imperial Majesty's Title to the whole Monarchy of Spain, will be clearly and incontestably establish'd. Having mention'd before those *Renunciations*, and distinctly mark'd all the Dates thereof, it were needless to specify them anew. It will undoubtedly, be more to the purpose, and this is the last thing that remains to be done, to examine the *Exceptions* and *Reasons of Restitution*, by which the French endeavour to invalidate those *Renunciations*.

Those *Exceptions* are of divers Kinds:

They pretend,

1. That the Infanta Maria Theresa was a *Minor*, or under Age, when she renounc'd.
2. That she was aggriev'd in her *Renunciation*.
3. That one cannot renounce a Crown.
4. That if the *Renunciation* bound the Infanta, it did not, however bind her Issue. And
5. That the Will and Testament of Charles II. has decided the Question, by calling the Duke of Anjou to the Crown.

FIRST EXCEPTION: That the Infanta Maria Theresa was a *Minor* when she renounc'd.

Altho' this Exception takes up 12 or 13 Pages in the Treatise of the Rights of the most Christian Queen, it may yet be refuted in as few Words as I have used in setting it forth. In order to that, it will suffice to mention the Terms of the *Renunciation* it self, wherein the Infanta speaks thus: *Whereas I am Major, being of 20 Years of Age, and it has pleas'd our Lord to give me Capacity and Discretion to understand and apprehend the Substance and Purport of the said Articles, of which I am certain and foreapprized, having often inquired into the same, and into their Conveniency, during the space of six Months since the same were concluded and publish'd: By which it appears beyond Contradiction, that that Princess was not a Minor either in Age, or Judgment. The Defect of Minority might more plausibly have been objected to the Infanta Anna, Consort of Lewis XIII. who*

was but 12 Years old when she renounc'd; the two Kings acknowledg'd in the Contract of Marriage, that at that Age she should be capable of making a Renunciation. The Reason which some† Doctors alledge for it is, that if a Virgin is capable to marry, she's capable likewise to consent to the Contracts and Conventions of her Marriage: But there's yet a Stronger; for the Law will have it so. I mean the Law call'd *de las Partidas* which in Spain is a Fundamental Law, first establish'd by King *Alphonfus*, surnamed the Wise, and since publish'd and ratify'd by King *Ferdinand* and Queen *Isabella*. It provides that the Kings shall be Majors at 20 Years of Age, and the Queens as soon as they are married. 'Tis in *Part. 2. Tit. 15. Leg. 3.* where speaking of the Persons to whom the Regency is to be committed during the Minority, it says; *E que lo tengan en Paz e en Justicia, fasta que el Rey sea de edad de 20 Anos, e si fuere hija, la que oviere de eredar, fasta que sea casada*: That is, *that they keep the Kingdom in Peace and Justice till the King has reach'd the Age of 20, and if a Daughter is to succeed, till she is married.* Now according to this Law, the Infanta *Maria Theresa* was doubly a Major, for she was both married, and above 20 Years of Age, being born on the 20th of September 1638.

Second EXCEPTION. *That she was aggriev'd in her Renunciation.*

To clear this Point, it is necessary to observe, That the Infanta *Maria Theresa* made two different Renunciations, of which there are also two distinct Deeds. By one of these, which you will find here enclos'd, and mark'd D. she renounc'd the Paternal and Maternal Domestick Estate, for the Portion or Dowry of 500000 Crowns of Gold, which was bestow'd on her by the King her Father. By the other, likewise hereto subjoin'd, and mark'd E. she renounc'd the Crown of Spain,

† A Dialogue on the Rites of the most Christian Queen, p. 220. *Annaus Robert Lib. 2. Argentre ad Art 15. Cl. 4 N. 10.*

Spain, and all the Kingdoms, States, Provinces, Territories, and Seignories thereunto belonging, upon the Prospect and in Consideration of her Marriage. These two Renunciations are no ways dependent one upon the other; and are as essentially distinct from one another by the subject Matter thereof, as by the Deeds that contain the same; But the *French* were two Cunning to distinguish them; for they would thereby have overthrown what they endeavour'd to prove by means of the pretended *Grievance* they find to them: *Grievance* (in *French* *Lezion*) signifies a *Wrong* done and suffer'd; but there are two sorts of *Wrongs*, viz. one *Real* the other *Personal*, one which proceeds from the Value of Things, the other from the Malice of Persons. The first, is generally accounted a *Loss* of above half the value, which one of the Contracting Parties suffers, against his or her Intention, in the Contract he or she makes. According to this, the *French* have made a great Noise about the real Disproportion between a Portion of 500000 Crowns of Gold, and the whole Monarchy of *Spain*. But this Disproportion disappears, when one takes Notice that in the Deed of the Renunciation to the Crown, the Dowry is not so much as mention'd; and that in the other Deed, the Portion appears to be only in Consideration of the Domestick and Patrimonial Estate, which might fall to the Infanta by Right of Inheritance, or otherwise. The Terms are so clear, that they admit of no Ambiguity. I am certain, says the Infanta, foreapprised and inform'd, to my entire Satisfaction of the Substance and Purport of these Articles. I acknowledge, and have acknowledg'd, that from the future Succession of the King my Lord, and from the Inheritance of the most Serene Queen my Mother, there could in Rigour fall or belong to me, for my Inheritance and Portion, the said Sum of 500000 Crowns of the Son, and altho' it might belong to me, it is a very competent Dowry, and the greatest that has hitherto been given to any Infanta of Spain. 'Tis plain therefore that the Crown of Spain is neither mention'd nor meant in this Renunciation, but only the Domestick and Patrimonial Estate, which might devolve to any Infanta by Inheritance, seperately

and independently from the Right to the Crown. Whether the Infanta was *aggrieved* in that Renunciation, is not our present Business to examine; She declares herself, that she was *certain, foreapprized, and inform'd of the contrary to her entire Satisfaction*; and methinks one ought to take her Word for it. Besides, if there was about it any matter of Dispute, the same was determin'd to the Satisfaction of the most Christian King, by the Treaty of *Aix la Chapelle*, by which he was left in Possession of so many fine Countries.

As for the Renunciation to the Crown contain'd in the Deed mark'd E. there are a hundred Reasons for placing it among Contracts purely free, in which Case there's no valuable Consideration, or Compensation to be expected therein, since those Contracts do not admit of it, nor consequently of any *Grievance* either of half, or above half the Value. The End of this Renunciation was infinitely more Noble than that of a Compensation of Interests, and it is sufficiently express'd in the Contract of Marriage, but much better still in the Renunciation it self, which is here annex'd, and to which I refer you.

By that Piece it appears that the Common Good, Glory and Advantage of the two Kingdoms, the private Interest of both Families, and above all the publick Good of all Christendom, were the Motives that induc'd the Infanta to make this *Renunciation*: She weigh'd the Importance and Consequence of it *during six Months*, and after Mature Deliberation, she resolv'd to make a plain and free Renunciation, without reserving to her self any sort of Advantage or Profit: Being contented with the inward Satisfaction she felt upon the Prospect of the great + Good which might thereby accrue to her dear Country, the two Kingdoms, and even all Christendom.

+ If it be true, as the Treatise of the Rights of the most Christian Queen has it, That the Perfection of a Contract consists in his Conformity with the Law, nothing can be more perfect. For on the one Hand it is founded on the Law of
Exclusion

I have already observ'd, that if the *Renunciation* was *Free*, there could be no *Grievance* in the *Matter*; but some may object, that there's none in the *Manner*? Was there no *Fraud* or *Deceit*? And did King *Philip* use no *Violence* to oblige the *Infanta* to do what he desir'd of her? The *French*, indeed, pretend it: For thus they speak of that *Matter* in the *Treatise of the Rights of the most Christian Queen*, p. 71. Did the *Yoke of Paternal Authority* together with that of *Royal Power*, the just *Passion* she had conceiv'd for so illustrious an *Alliance*, her *Age*, her *Quality*, her *Education*, her want of *Experience*, and profound *Ignorance* of her own *Interest*, leave her sufficient *Light*, *Force*, *Constancy* and *Resolution*, to resist the *King* her *Father*, and all the *Policy* of *Spain*, who no longer look'd upon her as an *Infanta* of the *Kingdom*, but as a *Queen* of *France* whose *Rights* they design'd to alter? He kept her *Eyes* shut to hinder her from seeing so many *Crowns* and *Scepters* which they would have her renounce, and her *Will* being a *Captive* to the *Interest* of *Castile*, she could not have spoken one *Word* about her *Rights*, but she had before her *Eyes*, a *King*, a *Father*, and a *Guardian*, that silenc'd her, and kept her under the *Yoke of Absolute Authority*. It is common enough, particularly in *France*, for *Lawyers* who defend a bad *Cause*, to have *Recourse* to *Declamation* and *Bombast*, but I never saw any thing of that kind so *Nonsensical* and *Preposterous* as this is. Would not one be apt to imagine at the *Reading* of that *Paragraph* that the *Infanta* was *Queen* of several *Kingdoms*, but under *Age* and *Simple*, and that by her *Renunciation* she divested herself of all her *Dominions* to invest King *Philip* her *Father* with the same? This is the only *Idea*

Exclusion, made in the *States*, or *Cortes* of *Castile*, in the Year 1618, and on the other its motives are the same as are alledg'd in the *Ancient and Fundamental Law* of the *Kingdom*, for regulating the *Succession*, which says: *Los omes Sabios e entendidos cesando el pro comunal de todos, — tuvieron por denecho que, &c.* That is, *Wise and Sensible Men*, who have the *common Good* in *View* — did account it just, that, &c. About which see the *Law* it self.

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Idea which that Article, as it is artfully Couch'd can raise in the Minds of those that are not better inform'd : And yet the Thing was quite contrary. King Philip was sole Master and Possessor of those Crowns and Scepters therein mention'd ; The Infanta had neither Dominions nor Principalities ; And she was of Age, and Endow'd with as much Wit, Wisdom, and Judgment as can be desired in a Great Princess. Moreover what consideration could have induc'd King Philip to impose upon his Daughter, as 'tis pretended he did ? The Renunciation she made neither encreas'd his Dominions, nor his Power : For he did not get so much as an Inch of Ground by it. Pray examine nicely all his Views and Motives, and you'll find that he could not have any other than those the Infanta ought to impose, and did really propose to her self, viz. an Advantageous Match ; the Peace between the Two Kingdoms ; the Good of Spain, and, by the same Means, that of all Christendom. And here behold the Force of Truth : The Author of this Declamation owns himself that the Infanta passionately desired so illustrious an Alliance ; and when he represents her Will as a Captive, he owns 'twas so to the Interest* of Castile. It follows, therefore from thence that this Renunciation was a political Concern ; that the Publick Good required it ; as not admitting that any Prince of the House of France should ever come to the Crown of Spain. Now what Motive more Noble, more Just, and more Consonant to the Fundamental Law can be expected, either in the King to persuade the Infanta to that Renunciation ? Or in the Infanta to make it ? Was there any need of Fraud, Deceit, or Violence in all this Affair ? If there was Fraud,

* He says also in another Place, where he argues against the Spaniards ; It is therefore the Advantage of the Crown of Castile ; But then 'tis prejudicial to that of France, and one ought not to call that the Common Good of the Two Kingdoms, which is only advantageous to one, and detrimental to the other. p. 99.

Fraud, 'tis certain 'twas not on the side of *Spain*: But I know not how the Court of *France* can be Justify'd, as to that Imputation, when one Considers the Principal Share they had in this Negotiation, their *Promises, Renunciations, Treaties, Oaths, Ratifications*; and when afterwards one sees all these laid aside, and trod under Foot.

This may suffice as to the seeming *Exception*: However, I shall add; That even supposing the *Renunciation* to be *permutative* and not *gratuitus* and *free*, there would be no *Grievance* or *Wrong* in it, either as to the *Infanta*, or her Descendants. The Crown of *France* is not Inferior either in Dignity or Power to that of *Spain*; and by Renouncing one she acquired the other; And she could not enjoy them both. Besides, the Hopes she might have of coming to the Crown of *Spain* were very remote and uncertain. The King, her Father, had a Son alive who was the Presumptive Heir to the Crown; He was of Age able still to get others; the *Infanta* could not come to the Succession but in Default of them; and the Event has shewn that the Crown would never have devolv'd to her, since King *Charles II.* as infirm as he was, out-liv'd her many Years. Therefore, all Things consider'd, she only renounc'd a Crown very remote and uncertain, and got one certain and present. So that it cannot be said that herein she suffer'd any Loss, Wrong, or Grievance. To which purpose, Sir, you may consult the Baron of *Isola* in his *Buckler of State and Justice Art. 4. N. 7.* for this is his Position, which he maintains with great Strength of Argument.

Third

* This likewise affords Matter for a *Dilemma* that may be retorted against the Duke of *Anjou*: For either there was a Wrong done in the permutative *Renunciation* of the *Infanta*, or not. If there was none, why did the French maintain the contrary so long? Why did they build on it their Claim to the Succession of *Spain*? And if there was a Wrong done, would not the Duke of *Anjou* be likewise aggrieved in the *Renunciation* he offers us? Would not it give him a Right to rescind it?

Third EXCEPTION, *that one cannot renounce a Crown.*

This ought to be understood of *Personal Renunciations*: You have seen before what the *Civilian Aubery*, and the *Treatise of the Rights of the most Christian Queen*, say about that Matter; and here is another remarkable Passage taken out of the latter: *The Tie that binds the Royal Posterity to the Scepter, and imposes upon them a natural Obligation to receive it, each in his Turn, according to the Order of Succession, is so strong and so strict, that not one of those who are born in that Order, can withdraw himself from it by his own Authority, nor except himself from Obeying the Constitution of his Country, which calls him to the Office of Supreme Governor, or Royal Authority. The Reason of it is, because the Fundamental Law of the State having form'd a reciprocal and eternal Relation between the Prince and his Descendants on the one Hand, and the Subjects and their Descendants on the other, by a kind of Contract which appoints the Sovereign to Reign, and the People to Obey, neither of the Parties can alone, and when they please, free themselves from so solemn an Engagement, by which they have bestow'd themselves one upon the other, for their mutual Help, p. 129.* In these Assertions there is something true, and something false; but, however, this appears, to be the Sense of the *French Nation* about *Renunciations*. *Grotius* who has treated this Subject with his usual Exactness decides, without hesitating in favour of the Contrary Opinion. *Simi- lis est questio*, says he, *an abdicari possit Regnum, aut Jus Succedendi in Regnum? Quin pro se quisque abdicare possit non est dubium.* That is, *There is a like Question whether a Crown, or the Right of Succession to a Crown, may be Abdicated? there's no doubt but any one may Abdicate for himself: Grot. de Jure Belli et Pacis Lib. 2. Cap. 7. §. 26.* I am in this of *Grotius's* Opinion: Tho' methinks there ought to be some Distinction. For there is a great Difference between a Prince who is Simply call'd to the Crown by the Constitution of the Kingdom, according

to a Settled Order; and a Prince who has already accepted it, who has entered upon the Royal Office, and who has been Sworn to it. The latter has contracted an Engagement which the others are not bound by, and as the Advantages are not equal, neither ought the Obligations be so neither. A Prince who is actually King cannot at all Times, and on any Occasion, renounce the Royal Dignity: For the Kingdom ought to assent to his Renunciation; or at least it ought to be made in Time of Peace and Tranquility, so that the State be not deprived of Successors capable to govern; but as for the Princes of the Royal Blood they may renounce whenever they please. They enjoy the Right of Succession as a *Benefit* and *Advantage*, not as a *Burden*, and 'tis beyond Contradiction that one may at any Time renounce a Benefit, the Law which call'd them to the Crown necessarily supposes their Consents, otherwise they would not be *Free Persons*; and they would be born in a kind of Servitude, which cannot be so much as thought without Absurdities; altho' the Author of the *Treatise concerning the Rights of the most Christian Queen*, has not Scrupled to affirm it in expresse Terms. If there were need of Instances to prove the Right and Validity of Renunciations, there's no Monarchical State but would afford some, and *Spain* more than any other. The Emporor *Charles the Fifth's* Renunciation, against which nothing was ever alleged, is famous among the Renunciations of Kings; and as for those of Princes we have that of *D. James* Eldest Son of *James II.* King of *Aragon*; that of *Alphonso de la Cerda*, Eldest Son of *Ferdinand*, from whom the Dukes of *Medina Celi* are Descended; and that of *Berangaria*, Daughter to *Alphonso 9th* King of *Castile*, and lastly of *Anne* of *Austria*, Daughter of *Philip III.* King of the whole Monarchy. This last alone may afford an Argument sufficient to stop the Mouths of all *French* Men in this Matter; for if it was Null, as they pretend, at present, why did they say nothing of it, during the Fifty Years that Princess Liv'd? And if that final time they knew that an Infanta of *Spain* has no Power to Renounce, why did they Court and Treat a Marriage of their King with the Princess *Maria Theresa* upon the same Foot? On whose side now is the *Fraud* and *Deceit*, the *Spaniards*, or the *French*? After

After all it is plain, that if there be any thing doubtful in the Right of Renunciations, the Question amounts to this, whether the Consent of the State or Kingdom be necessary, or no? The Affirmative may be maintain'd: But however, when once that Consent has been had either expressly or Tacitly, 'tis Absurd to pretend, that the *Renouncer* can recall what he has done, and claim his first Right as if he never had renounc'd. Now the Law of *Castile* of the Year 1618, and the *Pyrenean* Treaty of the Year 1659, contain not only the Consent, but also the *Positive Will* of the State; and therefore this Exception cannot affect the Infanta's Renunciation.

Fourth EXCEPTION, that tho' the Renunciation bound the Infanta, it did not however bind her Issue.

I maintain on the contrary, and more Logically, that the Infanta having by her Renunciation, divested herself of all the Right of Succession, which belong'd to her before, she could not transmit that Right to the Issue she had since, and consequently that the said Right neither could nor can belong to them.

And here occurs the Question, whether the Children of the Kings of Spain succeed to the Crown by Right of *Inheritance*, or by Right of *Blood*; by *Representation* or by *Vocation*, or *Calling*? Doctor * *Azevedo*, in *Legem*

* *Sunt qui dicunt quod in Fidei-commissi successione Patrem Filius representat; secundum Jas. conf. 159. Volum. 4. & Oldrad. conf. 34. quantumvis regulare sit, in omnibus dispositionibus aliis quam majoratus filium non representare, neque intrare locum patris, nisi ubi aliud jure statutum reperietur. Ut novissime post hæc tractat. Pelæz in tract. majoratum 2. p. q. 9. n. 21. nisi familia vel propinqui vocentur. Secundum Molinam de Primogeniis lib. 3. c. 6. nu. 44, & 45. In hac tamen ampliacione communis est opinio in contrarium. Imo quod in simplici Fidei-commisso Patrem Filius non representat, neque intrat in locum ejus. Secundum Deci. conf. 1. n. 5. ex Cumano per eum corrupte allegato in conf. 107. cujus ratio est: nam cum in Fidei commissi Testatori, & non ultimo possessori succedatur, L. Cohæredi §. cum filia ff. de*

6 Tit. 3. lib. 2. *Recapitulationis*, holds for the *Vocation*, and you saw just now that the French have built upon it their principal Argument in their first Disputes. Others are for the Right of Inheritance, and their Opinion is supported by the Terms of the Law; but all agree in asserting, That the Crown is a perpetual and inalienable Trust. I shall examin both the Hypothesis, and begin with that of *Right of Vocation*, which offers it self first, and it seems the most difficult.

I agree that, in general, the *Jus Vocationis* does not favour Renunciations; which the Learned Grotius has observ'd when he says: *In hereditariis qui Jus a se abdicat, in liberos nihil potest transferre: at in Lineali Successione, patris factum nocere non potest liberis natis, quia simul atque existere ceperunt Jus proprium eis quasitum est ex Lege; sed nec nascituris, quia impedire non potest quin ad illos quoque suo tempore Jus pertineat ex populi dono.* This is positive; But there is no general Rule without Exception; Hear what follows: *Illud interest inter natos & nascituros, quod nascituris nondum quasitum sit jus, atque ideo*

de vulga; per consequens non defertur tale Fidei commissum jure hereditario. Id namque dicitur jure hereditario deferri, quod non nisi heredi, jure tali hereditario defertur. Illud autem e contrario dicitur non jure hereditario deferri, sed jure sanguinis, in quo is, qui heres non est, vel etiam qui heres est, ex sola agnatione, seu cognatione, vel speciali vocatione succedit, secundum Bar. L. ut jurisjurandi §. si liberi ff. de op. lib. relatum & securum per Molinam in dicto lib. 1. c. 8. nu. 6. Manifeste patet filium in fidei-commisso non intrare locum patris, utpote, quia communior est opinio, in iis, quæ non jure hereditario deferuntur, filium locum patris non intrare; secundum Deci. dicto cons. 1. n. 3. & iterum consilio 299. & 408. & 412. & 417. ubi firmat ab hac non esse discedendum, & tradit Molina ubi supra libro 3. c. 6. n. 40. & Covar. in pract. c. 38. n. 36. per totum. Erratio rationis est, secundum eund. Deci. cons. 79. n. 1. quoniam ubi succeditur jure hereditario consideratur dispositio juris, quæ est quod filius intrat locum patris: sed cum succeditur jure sanguinis, vel specialis vocationes, consideratur affectio Testatoris quam habere videtur ad proximiorum in gradu, & sic filius non intrat patris locum in tali Fidei-commisso, sed proximior admittitur. In majoratu tamen secundum dictos, filius optime locum patris intrat & repræsentat eum: prout testantur plures, & Didacus Perea, in præfati col. 335. in fi cum i seq. & Pelæus in d. tract. majorat. d. 2. q. u. 21 u. 6.

*ideo auferri eis possit populi voluntate, si etiam parentes
quorum interest Jus ad filios transire, Jus illud remiserint.
Jure Belli & Pacis Lib. 2. Cap. 7. §. 26.*

By this it appears, That in Royal Successions which devolve to one *Jure Vocationis*, the Renunciations of the Fathers may be valid for their Children yet unborn, if the People be consenting. Now this is the very Case in Question: For there was a Law enacted in 1618. in the *Cortes* or States of the Kingdom, upon the Renunciation of the Infanta *Anna*, which ratifies the same, and for ever excludes from the Crown of Spain the Princes and Princesses of the House of France. The Renunciation of the Infanta *Maria Theresa* is conformable to that Law; over and above which, it was inserted *Verbatim* in a Publick Treaty, which is also a perpetual and inviolable Law.

The Distinction *Grotius* makes between the Children Born, and those that shall be Born, is grounded on the essential Difference between Renouncing the Government of the People, and Renouncing the Possession of some Dead Goods, as Lands, Houses, Moveables, &c. This is the Spirit, and Meaning of the Law in the *Nueva Recopilacion*, Tom. 2, Lib. 7. Tit. 4. wherein, speaking of the Offices of Magistracy and Government, it says, That in Case of Renunciation they must be fill'd as if they were become Vacant by Death: *Assi Como tal Officio Vacasse por Muerte*: Which clears their Objection, who pretend that the Infanta could not renounce to the Prejudice of her Children yet unborn. For if by the Law the Renunciation of Offices is look'd upon as a civil Death, the Infanta ought to be accounted Dead in Law, from the very Day she renounc'd; and no more Notice ought to be taken of the Children she had since, than if they never had been born.

But is the Royal Dignity really an * Office? Let the Law Decide this Point also — See how the King speaks

* The Treatise concerning the Rights of the most Christian Queen, says, *It is one of the Maxims of the Civil Law, that the Proconsul could not of himself, abdicate the Authority that had been trusted to him; and it is consonant to Reason, that the Prince* being

speaks in it: *Liberal se deve mostrar el Rey en oír peticiones y querellas a todos los que a su Corte vinieren a pedir justicia, porque el Rey segun la significacion del nombre se dize Regente o Regidor, y su proprio Officio es hazer juizio y justicia.* That is, 'The King ought to shew himself generous and ready to receive Petitions, and hear the Complaints of those that come to his Court to demand Justice. For according to the true Meaning of the Word, a King is a Regent or a Magistrate, whose proper OFFICE, is to deal Judgment and Justice: *Recopil. Lib. 2. Tit. 2. Ley 1.* See also the other Laws under the same Title, and those under the Title 7. of the Sixth Book, or rather consult every one of them, for there are none in Spain, but what are founded on that Principle.

Let's resume the Question in Hand. The Law is positive, that as to Offices a *Renunciation* ought to be accounted a *civil Death*, and that they ought to be fill'd as if they were Vacant by Death. If therefore the Royal Dignity be an Office, which it has been prov'd to be by another Law, it necessarily follows, that in Case of a *Renunciation* the Throne ought to be fill'd, as if it were Vacant by Death, without any Regard to the Children which the *Renouncer* may have afterwards. To put this Truth in a clearer Light, I shall propose a Case, which did not, but might have come to pass. *Christian Queen of Sweden* having renounc'd the Crown in 1654 and retired to Rome, *Charles Gustavus*, her Cousin German, was advanc'd to the Throne, and that Prince dying in 1660, another *Charles* his Son succeeded him; who was also succeeded in 1697 by his Son King *Charles XII.* now reigning: All which Princes Queen *Christina* has seen and known. Now let us suppose that she had Married after her Renunciation, and had had Children, Pray what Right would her Children have had to the Crown? Would the present King have been oblig'd to yield

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being the Head of his State, he may no more withdraw himself from that Political Body, for which he is form'd, than the Head from the Members of the Natural Body, over which it ought to reign. p. 131. This is a wretched Argument; but yet it proves that the French themselves, amidst their Slavery, believe the Royal-Dignity to be an Office.

the Throne * to them? And would his Children brought up in the Purple, have been excluded from it after him? I dont believe any Body will maintain such an Opinion. The Right of Succession to the Royal Office neither stands still nor retrogrades. The Possessor is no sooner divested of it, either by Death or Renunciation, but it devolves to the next Successor living; and 'tis in this Case that the † Dead seizes the next Living able to succeed. The same ought to be understood of all the Princes and Princesses of the Royal Line, in what degree soever they be; For there's no Reason to except them from it.

What now remains to be known is, who that Living is, whom the Law calls to fill the Place of the Renouncer or Dead; and 'tis what the Law alone can teach us. It is to be found in the *Siese Partidas del Sabio Rey Don Alfonso. Part 2 Tit. 15. Les 2.* But to spare you the Trouble to look for it, I send you herewith a faithful Transcript of it, under the Letter F. You will find in it, That the Crown ought not to be divided; That the Succession thereto is by Inheritance, and according to the Direct Line; That the Males are preferr'd before the Females, and among the Males the Eldest before the Younger; But that if there be no Sons the eldest Daughter Succeeds, in such a Manner nevertheless, That if the eldest Son died before the Succession came to him, and should leave a Son or Daughter, born in lawful Marriage, the latter should Inherit, and no other. And in the last Place, that if there were neither Son nor Daughter, the Succession should devolve to the nearest Relation; with this notable Condition, *Soyendo Ome para ello: e no aviendo fecho cosa porque lo dequiesse perder:* That is, provided he be a Man duly qualify'd and who has done nothing whereby he is to be excluded. Now this is the very Case that has happen'd; For King Charles II. died without Children, and so the nearest Relation

* *Stante Prajudicio tertii, nihil hujusmodi fictio retroactionem operabitur.* Gomes in L. 9. Torr.

† These Words are taken out of the Common or Custom Law of Paris. I quote them because the French have made of them a general Maxim, especially as to the Manner of succeeding to the Crown. The Word to Seize signifies here to invest or put into Possession; not *de Facto*, but *de Jure*.

tion was to inherit the Kingdom. This nearest Relation was the Dauphin of *France*, and after him the Most Christian King his Father; but neither of them were *Ome para ello*, a *Man duely qualified*: Being both excluded by the Renunciations of their respective Mothers; by the Laws of the Kingdom, and by the *Pyrenean Treaty*, which beyond Contradiction, are things *por que lo deviessen perder*, by which they ought to be excluded. The being the next of Kin to the deceased King is not sufficient to come to the Crown of *Spain*; For the Law requires besides, that the nearest Relation be *duely qualified*; as for Example, That he be born in lawful Matrimony, *de muger Legitima*; and that he be a *Roman Catholick*; *Deve el Rey conocer a Dios por creencia segun manda la Fe Catholica de Santa Iglesia, assi como se muestra en la primera partida d'este Libro. Part 2. Tit. 2. Ley. 1.* The Law does not specify the other Cases of Exclusion; But what Case can be thought, imagin'd or suppos'd, more plain and less subject to Controversy, than the *Exclusion* it self? Nay, an Exclusion consented to, Free, and enacted into a Law; and which is found wherever one looks for Right or any Foundation of Right. If you consult either the Statute Books, or Publick Treaties, you will find it in Both; and if you recur to the Conventions of Marriage, they declare the Issue thereof incapable ever to succeed to the Crown of *Spain*. It is customary among the *Spaniards* to swear before hand the Princes presumptive Heirs to the Crown, and these on the contrary were SOLEMNLY ABJURED. Judge now your self, whether they may be said to be *duely Qualified*, or according to the Law, *Omes para ello, e non aviendo fecho cosa por que lo deviessen perder*.

My principal Design in this Article was to prove that if the Succession to the Crown of *Spain* be *Jure Vocacionis*, the Princes of *France* are formally and expressly excluded; but the Reasons I have alledged would be no less forcible, if applied to the Hypothesis of the *Right by Inheritance*. Nay, I dare say, that without the Help of any other Arguments, they contain a double Evidence against the Pretensions of the Dauphin and his Descendants. For his only Title to the Crown, would be to supply the Place of his

Mother, and represent her. Now by coming into her Place, he finds no Right, because she had renounc'd; and by representing her he represents a Person that has no Right. It is beyond Contradiction, that in an Inheritance, the Right is transmitted from Father to Son, and that if the Father had no Right, it is impossible for the Son to draw any from him. This is likewise the Opinion of *Grotius* in the Passage before quoted: *In Hereditary States*, says he, *A Prince who renounces can transmit or transfer nothing to his Heirs*. How can then his Children that are born afterwards, have any Right to the Crown? I cannot see how that can be made out, unless one should say, that the Transmission was made before the Renunciation, from whence it would follow, that they had a Right before they had a Being: which implies Contradiction. 'Tis a Principle receiv'd both in Mathematicks and Philosophy, That *what does not exist has no Propriety*, and it ought to be one in Civil Law, That *what does not exist, has no Right*. Now if the Infanta *Maria Theresa* could not, before her Renunciation, transmit to her Children the Right of Succession to the Crown, because they were not yet in Being, it follows that she never transmitted any such Right to them, because she had none her self, when they began to exist. Certainly, they could not at the Moment they were Born, or Conceived receive from Her a Right she had not.

I cannot better conclude this Article, than by the following remarkable Words of the Infanta *Maria Theresa* in her Renunciation of the Crown.

By Virtue and in Performance of the said Article, I hold and declare my self excluded and foreclosed, and the Children and Descendants from this Marriage excluded from and absolutely incapable, without any Limitation, Difference, or Distinction of Persons, Degrees, Sex, and Time of the Action and Right of Succeeding to the Kingdoms, States, Provinces, Territories, and Lordships of this Crown of Spain, express'd and declared by the said Article; And that I will and consent, both for my self and my said Descendants, that from this Time, and for any Time hereafter, they may be held as yielded and transferr'd to him who shall be nearest in Degree (because I and they

are excluded, * unable and incapable) and next to the King by whose Death they shall become Vacant, and to whom the Succession of the said Kingdoms ought to devolve; And that he may be held as lawful and rightful Successor, in the same Manner as if I and my Descendants had not been † born, or among the Living, because we ought to be held and reputed as such, so that neither in my Person nor in theirs, there may be consider'd, or any Foundation laid of any (a) Representation, active or passive Principle, or continuation of Issue, either effective or contentive of Substance (b) Blood, or Quality, nor draw the Descendants and Computation of Degrees from the King my Lord, nor from the Kings his Glorious Predecessors; nor for any other Effect, or Purpose, in order to enter upon the Succession, or forestal the Degree of Proximity, and exclude from it the Person, who, as was said before, shall be next in Degree—
 And if in Fact, or under a mistaken Pretence, distrusting of Justice (for we ought always to acknowledge and confess that we have no Right to succeed to the said Kingdoms) we should endeavour to seize and possess the same by Force of Arms, making or exciting an Offensive War for that Purpose, that from this present Time, and for any Time hereafter, the same be accounted, unlawful, unjust, and ill grounded, resulting from Violence, Invasion, and Tyranical † Usurpation, and carri'd on
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* All this is consonant to the Foundamental Law before quoted; and hereunto annex'd, *Sub Littera F.* whereby, in Default of Children, the King's nearest Relation is call'd to the Crown, *Seyendo Ome para ello, &c.* being due Qualified, &c.

† This is the Meaning of the Law in the *Nueva Recopilacion Tom. 1. Lib. 7. Tit. 4.* before quoted.

(a) This relates to the Hypothesis of the *Rights of Inheritance.*

(b) This is the relative to the *Fus Sanguinis & Vocationis.*

† It is needless to cry out, What would the Infanta Maria Theresa say if she saw the King her Consort, and the Princes her Grand-Sons seize Spain, contrary to her express Renunciation, and make War against all Europe to maintain their Invasion? Here you have what she said before hand, while she was free to speak her Thoughts about that Matter. Observe that both her Words and Thoughts seem to be taken out of the Laws of her Country. For in the
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against Reason and Conscience: And that, on the contrary that War be deem'd and accounted Just and Lawful, which shall be made or excuted by him who ought to Succeed by the Exclusion of my self and of my said Children and Descendants; whom his Subjects and Vassels ought to receive and obey, and to him swear Allegiance and do Homage, and serve him as their King and Lawful Lord. And I affirm † and certifie, that I was not induced to make this Deed, nor moved and persuaded to the same, by the Respect and Veneration which I owe to and have for the King my Lord, as being so Powerful a Prince, and a Father who loves (a) me so much, and whom I love, and who holds and has held me under his Paternal Power; because in reality in all that is and has been transacted in relation to the Conclusion and Effect of this Marriage, concerning the said Agreement, and Article of my Exclusion, and of my Descendants, I have had all the Liberty I could desire to speak and declare my Will, nor was I on his Part, or by any other Person, induced or drawn in either by Awe or Menaces, to do any thing contrary to it. And for the greater

Ley. 10. Tit. 1. Part King Alfonso says, Tyrano tanto quiere dezir, como Señor que es apoderado en algun Reyno, o Rey en Tierra, por fuerza, o por engano, o por traycion, That is, a Tyrant is as much as to say, a Prince who has invaded a Kingdom, or a King who has possess'd a Country, by Force, Fraud, or Treachery. The Words are harsh, and against my Inclination; but 'tis not I speak, 'tis the Law.

† This confutes in fewer Words than could otherwise have been done, all that the Treatise about the Rights of the most Christian Queen says, of that strange Traffick which Spain has made of the Rights of her Infanta, and of the shameful Illusion with which they pretend she would have endowed the most August Match that ever was made. The Infanta's Declaration in this Place has the greater Weight, that altho' she was since in the Power of the most Christian King her Consort, yet she never retracted it by Word or Deed, verbally or in Writing. She saw what was doing; She lamented it; and died in those Sentiments of which the whole Court were Witnesses.

(4) See this Expression, and positive Declaration against all the Inveclives which the Author of the Treatise concerning the Rights of the most Christian Queen was not ashamed to use against King Philip IV. charging him throughout his Book with Immorality, Injustice, Inhumanity, Cruelty, Barbarity, and Violation of the Rights of Nature, Heaven and Earth.

greater Validity and Security of what is said and promised by me, I solemnly Swear by the Gospels contain'd in this Missal, on which I lay my Right Hand, &c. See the Deed it self mark'd E. in the Appendix.

Fifth OBJECTION. That the Will and Testament of Charles II. has decided the Question, by calling the Duke of Anjou to the Crown.

This Objection ought to be understood in one of these two Senses: Either that the Kings of Spain can dispose of the Crown by Will, to the Prejudice of those who are call'd to it by Law; or that in Case of a Competition they may Judge between the Pretenders, and adjudge the Crown to whom they please. Both these Propositions are equally erroneous; nor shall it be difficult for me to make it out. But before I come to my own Proofs, it may not be improper to set the French against themselves, and confute them by their own Writings. Nor will I produce the private Sentiments of some Civilians alone: But you shall see those of the most Christian King about the very Matter of the Succession of Spain, in the Manifesto publish'd by his Command in 1667. under the Title of a Treatise concerning the Rights of the most Christian Queen, p. 132. and says.

And indeed one cannot imagine by what Policy the Council of Spain could now maintain, against the Honour of the Crown, and the Authority of its Fundamental Laws, that the Catholick King was Free to make the Infanta renounce the Sovereignities that were devolv'd to her, and the Hopes of all those that might fall to her. For if it be in the Power of a Prince to make his Children renounce the Right of the Scepter, and to exclude them from the same, in favour of Strangers * to the Family, as was done on this Occasion

* I know not in what Pedigree, or Register the French found that their Princes are of the Royal Family of Spain; and that those of the Branch of Austria in Germany are not of that House; but 'tis plain they pretend so. Tho' Charles V. the Author of the Branch of Spain, and Ferdinand I. Author of the Branch of Germany, were Brothers, and Sons of the same Father; altho' they made between them Family Contracts, whereby one Branch is to succeed the other, in Case of Extinction; Tho' the Blood of those two Branches was united by six different Marriages, and tho' the Emperor Leopold was Grandson of Philip III. Yet, according to French Logick, both he and his Children are Strangers in Spain, and the Princes of France are of the Family.

Occasion, one may from thence infer, that he has a Right to bring nearer or put back † their Rank to the Royal Dignity, without observing the Order of Birth, or to divide the Kingdom amongst them, at his Will? Since it is much more to put it entirely out of his House by a Renunciation, than to preserve it in his Family at his Choice, or to divide it between his Children, according to his Affection. But furthermore one may from that same Principle affirm, that the Prince can make the Males as well as the Females renounce the Right of Succession. — Nevertheless, has Spain a more inviolable Maxim than what is consecrated in their History by so many famous Examples, which teach us, That the Children of the Sovereign do not come to the Crown by a Right they hold from him, but by a sacred Trust of the Fundamental Law of the Kingdom, which calls them necessarily after their Father to the Royal Dignity; and which by an infinite and perpetual Claim ever substituting the Living to the Dead, produces by it self all the Title and Right to the Succession of Crowns, independently from the Will of the Deceased. We learn from the Annals of that Nation, that they never could nor would suffer any * Alteration in the Order of the Royal Succession, upon any Pretence whatsoever. Don Ferdinand King of Castile and Leon, went about to divide the Kingdom between his Children— But the Fundamental Law of the State, more powerful than all those particular Dispositions, prevail'd in favour of the Eldest Son, and maintain'd him, notwithstanding those Partitions, in the Totality of the Dominions. The Will and Testament of Don Alfonso IX. King of Leon, had no better Success, for altho' he had constituted his two Daughters Heirs to his Kingdom of Leon, nevertheless Don Ferdinand his Son, whom he had excluded from it, was maintain'd

† This is exactly what K. Charles II. did by his Will whereby he call'd the Duke of Anjou preferably to his Father, his eldest Brother and all the Children of his Line.

* Observe, That at the very time that the French maintain'd this Position, which certainly is very just and very true, they had a Mind to reunite the Crown of Spain to that of France; which, according to their other Maxims, could not have been done, without excluding, for ever, the Daughters from the Crown? That is to say, without overthrowing the Fundamental Laws, of which they seem to be so jealous and tender in this Place, nor without altering the Order of Succession.

tain'd in by the Approbation of all the States; — King Ferdinand the Catholick being fallen sick at Madrigalejo, he sent for three of the chief of his Royal Council to whom he told in great Secresy, that — by a Will he had made at Burgos he had committed the Government of the Kingdoms of Castile and Aragon to the Infante Don Ferdinand, his Grandson. — But those three Councillors answer'd him, with great Prudence, that 'twas in vain, he had by his Will, changed the Order of Royal Succession, because the Law of the Kingdom did not permit him to do any thing against the Order of Primogeniture, to the Prejudice of Charles who was the eldest. Which Ferdinand having heard, he told them with Tears in his Eyes, that he approv'd their Council, and made another Will, whereby he cancelled the first, and constituted Charles, his eldest Son his Heir, according to the Law of the Kingdom.

What could we alledge more Forcible, more Express, or more Authentick, against the Will of Charles II? Is it possible that the same King who caused these things to be written and publish'd in the Year 1667, invaded in 1700 the whole Spanish Monarchy, without any other Title than a Will? Fly to the thickest of the Wood, thou wild Satyr, who could'st be offended at the sight of a Mouth that blow'd Hot and Cold for two different Ends? Here you might see the same Court, the same People, the same Doctors maintain, Contraries, in the same Cause; argue *Pro* and *Con*; assert the *Affirmative* and the *Negative*.

The Conduct of the French, for these Fifty Years past, in the Business of the Succession of Spain, cannot otherwise be accounted for, than by the violent Passion of Encreasing their Dominions and Domineering, that possesses them, and to which they Sacrifice all other Considerations.

In the Year 1660 they acknowledge the Right of *Renunciations*. They concur in that of the Infanta *Maria Theresa*, and the King solemnly confirms, and swears to it.

In 1667. they reject and detest it, they call it a monstrous Contract, a Violation of all the Rights of Nature, of the Blood, and of the Crown, and they take up Arms to Cancel and Annul it.

In 1700, they return to *Renunciations*. The Dauphin and the Duke of Burgundy make two Solemn ones, not only for themselves, but also for all their Descendants for ever. At

At present they hold *Pro* and *Con*; and Embrace at once the opposite Extremes. Of *Nine Renunciations* which are found in the Royal Family, they reject (a) Two; they admit (b) Four; they hold Two (c) indifferent; they are silent, as to (d) one; and they offer us a (e) Tenth.

In the Year 1667, they declare themselves against the Will of *Philip IV*, and prove both by Argument and Authorities, that a King cannot dispose of the Crown.

In 1700, they maintain the contrary; they accept the Will of *Charles II*. and from it assume a Title to set the Duke of *Anjou* on the Throne.

In 1701, and 1703, they regard it no more as a Law. They laugh at the Dispositions they find in it, in favour of the Queen Dowager. The Duke of *Anjou* corrects the Article which call'd him to the Crown, and Substitutes the House of *Orleans* to the Duke of *Berry*, preferably to the Archduke who was call'd to it in the third Degree, and to the Duke of *Savoy*, who was to come in the Fourth.

In 1667 they maintain'd in their Writings the **INDIVISIBILITY** of the Monarchy.

In 1698, and 1699. they abandon'd the same, and made two Treaties of **PARTITION**.

In 1700, they broke these two Treaties, and resuming the *System of Indivisibility*, they declared they would not yield a **WIND-MILL**.

Now again they come back to the **PARTITION**: they are for keeping *Spain* and the *West-Indies*, and giving the rest to the Emperor.

It tires one, I Vow, to follow those *Variations* and *Contradictions* which multiply as fast as one enquires into them. Have not we seen the *French* set up for Assertors of the *Immutability* of the *Order of Succession*, and pretend, at the same time, that the Crown of *Spain* ought to be united to that of *France*, in Case King *Charles II*. died without Issue, which nevertheless would have Excluded the

(a) That of *Anne* Mother to *Lewis XIV*, and that of *Maria Theresa* his Consort. (b) Those of *Lewis Dauphin*; of *Lewis Duke of Burgundy*; of *Mary Adelaide* Dutches of *Burgundy*, and of *Mary Louisa* Dutches of *Anjou*. (c) Those of the Emperors *Leopold* and *Joseph*. (d) That of *Maria Antonietta* Electress of *Bavaria*. (e) That of the Duke of *Anjou* to the Crown of *France*.

e Females for ever? Have not we seen them write for
e *Inalienability*, and *Indivisibility*, at the same time that
ey claim'd all the Provinces of the * *Netherlands*, by
ight of *Devolution*? And do they not now actually main-
in, that the Infanta *Maria Theresa* could not renounce
r her Children to come, but that the Duke of *Burgundy*
ould do it?

You will find nothing like this on the side of the House
Austria, they have, in this Affair, the Advantage that
has ever been their Interest closely to stick to Justice;
nd to make it their Bulwark, against the Attacks of their
enemies; so that they never were in the perplexing
ecessity to defend themselves by contradictory Propo-
sitions. Their Pretensions, their Allegations, their Con-
dict: Every thing has been uniform, equal, constant
nd consonant to it self. The Inferences that may have
een drawn from the Will of *Philip* in their Favour, are
o Exception to what I assert. The House of *Austria*
ever alledged it as a Constitution to which the Order
f Succession ought to Submit. Neither did their
interest require it, since they had on their side the *Funda-*
mental Laws, and the *Renunciations* of two Infantas,
ogether with the *Pyrenean Treaty*, and the universal
Consent of the People. But if it be reasonable in all
atters of Right and Law to support one's Assertions
y the Opinion of the Civilians and Lawyers, why may
ot we bring in that of a Prince who was King of the
Monarchy now in Controversy, and common Father
f the Competitors? And who in that double Capaci-
y declared his last Will to his People, and to his
Children?

Don't let us confound what ought not to be confounded,
he Will and Testament of a King of *Spain*, is doubtless,
Deed of Great Weight and Consideration, but which
s no Law in the State: Neither are they publish'd, or
romulgated as such, or made use of in Courts of Judi-
ature; and you will find none of them in the *Recopi-*
tations, or Law Books.

I need not tell you that the Kings of *Spain* do not en-
oy the Kingdom *ex Dominio*, because I believe we all
agree about it, and consequently that they cannot sell, give
away,

* The Duke of *Anjou* has since made an absolute Gift of
them to the Elector of *Bavaria*.

away, or alienate their Subjects like a Flock of Sheep altho' the Power of the Kings of Spain, be very extensive, yet is it neither Despotick, nor Arbitrary. To their Prerogative, to make the Laws, and no other besides them, can make them, *Part. I. Tit. 1. Leg.* But with Distinction and Limitation. There are three sorts of Laws in Spain; viz. the Ancient and Fundamental Laws; the Laws that are not Ancient, but which have been Enacted in the *Cortes*; and the Laws that have been made by the Kings, out of the *Cortes*.

The *Ancient and Fundamental Laws* are those on which the Constitution of the State is founded: Of which some are *General*, others *Particular*. The *General Laws* concern the whole State, as for Instance, those call'd *Siete Partidas*, or *Seven Parts*, and the particular concern only some Member of it, as the Ancient *Fueros*, Customs and Privileges of every Kingdom, Duchy, Lordship, Country, or City of the Monarchy, in what Part soever of the Earth they be Situated.

The *Laws that are not Ancient*, but which have been enacted in the *Cortes*, are those that are made from Time to Time, upon the Principal Concerns and Exigencies of the State in the general Assemblies of the Kingdom, which in Spain are call'd *Las Cortes*. They have the same Force with the Ancient; as being ever made with the Advice and Consent of the Three Estates; According to the *Nueva Recopilacion Lib. 6. Tit. 7.* in these Words

Law II. that the States ought to meet about Important and Arduous Affairs.

Whereas in the Arduous Affairs of our Kingdoms the Advice of our Natural Subjects, especially of the Deputies of our Cities, Towns, and Boroughs is necessary: Therefore we ordain and command, that the Cortes be assembled about all such important and arduous Affairs, and that the Three Estates of our said Kingdom, consult together, as was practised by the Kings our Predecessors.

The other Laws of less Consequence, such as those that are made for the more exact Execution of the Principal Laws, or for Ascertaining and Explaining certain Cases which had not been provided for; or for Promoting the good of the State, and securing the orderly Government thereof: All these may be made out of the *Cortes*, provided the Privy Council advise the same, by a Majority of two to one. These follow the Law in that behalf: *Nueva Recopilacion, Tit. 1. Lib. 2.*

Law VII. that the Judges report to the King such Laws as are to be made for Abridging Law-Suits. The Judges ought to consider what means may be used, and what Laws made to abridge Law-Suits, and prevent Litigiousness; and they ought to make Report of the same to the King. He may make the said Laws, and order the Execution thereof, because it conduces to the Good of his Kingdom.

Law VIII. That to make a Law Two Parts in Three the Council ought to Concurr.

We ordain and command that when the making of a new Law, or a Proclamation, or the derogating from, dispensing with a Law, shall be treated or debated in Council, all those of the Council then present, ought to concur in the same Opinion; or at least the Two thirds of them, whom we shall consult, that we may provide what is convenient for our Service, and the publick Good of our Kingdoms.

Thus you see, there are, as I said before, Three Sorts of Laws. First, The Ancient and Fundamental Laws. Secondly, The Laws enacted in the Cortes. Thirdly, The Laws made by the Advice of the Council. Those of the First and Second Sort are equally Sworn to by the Kings at their Accession to the Crown; and thereby come between them and their Subjects as it were *Pacta conventa*, or a Contract, which mutually and reciprocally binds them in the strictest Obligation. Which ought likewise to be understood of the Laws of the Third Sort, which the King that fills the Throne has made himself, and which therefore he could not swear with the rest; for as soon as they are enacted in the Cortes, the consent of the Three Estates gives them the Force of a true Contract between Parties; as is declared in some of them, particularly in the third Law of the Tit. 10. Lib. 5. of the *Nueva Recopilacion*, wherein Reviving the Law made against Innovations from the Crown, by King D. John II. it is said; That, upon the Request and humble Petition of the Deputies of the Cities, Towns, and Boroughs, of his Kingdoms, in the Cortes which he held at Valladolid the Year of the Incarnation of our Saviour 1442, he enacted and ordain'd by Law, Agreement, and Contract, an and lasting between Parties, that &c.

These sorts of Laws are entirely like your Acts of Parliament. The King gives them the Sanction with the

the Advice and Consent of the People, and when they are once made they cannot be revok'd but with the Consent of those who concurr'd in making the same.

As for the particular Laws which the Kings make with no other Advice than of their Council, the King who has made them, or his Successor after him, may repeal them at Pleasure. They are commonly call'd *Ordenanzas*, *Provisiões*, *Cartas*, and *Cedulas*, of which there are Collections under those Titles; and which are Binding, and in Force, so far forth as they are not contrary to the Laws enacted in the *Cortes*; But if they clash with the latter, they remain without Force, and are not put in Execution, as being obtained by Surprise.

And if contrary to the Premises, we should grant Letters or Warrant, with First, Second, or Third Command, and with some derogatory Clauses, or other Privileges and Penalties whatever, altho' mention should be made in the same of this Law, or any other, and if they should be wholly inserted therein, we command the Alcaldes, Judges, Regidors, and Officers of the said Cities, Towns, and Boroughs, whom it may concern, to respect the same, but not to put them in Execution; in which they shall incur no Penalty, and if in any manner they shall be liable to it, we give them from this Time our Pardon. And it is our Will and Pleasure that the Contents of this Law, and the said Privileges and Customs be observ'd. And if through Importunity, we should grant Warrants for the said Offices of Augmentation, we declare them Surreptitious, and revoke and annul the same.

The Laws Ten and Fifteen of the Tit. 3. Lib. 7. of the *Nueva Recopilacion* speak to the same Purpose, in relation to the publick and perpetual Offices of the Cities and Towns; as they do also, as to other Respects the Laws Five and Eight of Tit. 2. of the same Book, the Laws Fourteen, Fifteen, and Sixteen of Tit. 3. of the First Book and several others; nothing being more common in the Laws enacted in the *Cortes* than this Clause *Sean Obedecidas y no cumplidas*, by which all particular Ordinances or Decrees, that shall be contrary to the Fundamental and Principal Laws are declared null and void.

All this may abundantly suffice to shew, That King Charles II. could not dispose of the Crown by his Will For, as I observ'd before, a Will is no Law; but only a Domestick

Domestick Disposition which can have no Force but in Domestick Affairs; as for Instance, as to private Estates not annex'd to the Crown, but no Ways in Affairs of State. I do not disown that the History of *Spain* affords many Examples of Kings, who by their Wills have either Named, or pretended to Name their Successors: But some of these Instances are out of the Law, and ancients than the Law now observ'd in *Spain*; the other have only conform'd to the Laws then in Force, by Naming for Successor the Person who had full Right to be so, as may be seen in the Will of *Philip 4.* the others are rather Instances of Iniquity than Justice; And, the others, in the last Place, are so far from favouring the Will of *Charles II.* that they are entirely opposite to it, Upon which I might bring in the Instance of *Alfonso I.* King of *Aragon* and *Navarre*, who had divided his Dominions among the Knights Templars, those of St. *John* of *Jerusalem*, and those of the Holy *Sepulcher*: That of *James I.* also King of *Aragon*, who divided his Kingdom between his Two Sons; That of *Peter the Cruel* King of *Castile*, who named his Daughters to Succeed him, one after another; That of *Henry the Impotent*, King of *Castile*, in favour of *Johanna*, whom he affirm'd to be his Daughter; That of *Sancho VII.* King of *Navarre*, who adopted *James I.* King of *Aragon*; And that of the Wise and Unfortunate King *Alfonso* of *Castile*, who Named for his Successors the Children of *Don Fernando* his Eldest Son, to the Exclusion of *Don Sancho*, his Second Son, who, tho' a Younger Brother, had been inaugurated, and sworn in the *Corres*, the King present and consenting. An Instance which sufficiently shews, that in *Spain*, the Right of the Blood ceases to be a Right, when the Laws have made contrary Dispositions.

If I needed Authorities of the Civilians, to prove that the Will and Testament of a King cannot allow the Order of Succession Settled by the Fundamental Laws of the State, I could easily find as many as I have done Instances; but all this is Superfluous when the Law * it self speaks; especially when it speaks clearly. I shall therefore content

* Valet igitur illa Juris Feudalis Regula ut in Causa Regiarum et Feudalium Successionum vetus cujuscumque Gentis Institutum Romanas Leges vincat. *Joan Fab. Lib. 1. Tit. 12. Feud.*

content my self to give you in the Margin * two or three Quotations, which favour so much what I have had the Honour to tell you, that I cannot forbear inserting them. Besides, by placing them here, I shall have the Advantage of Beating the Adversaries with their own Weapons: For I draw them out of the *Treatise concerning the Rights of the most Christian Queen*, which I have so often quoted and confuted.

There remains another Exception as to the Will of Charles II. which perhaps is not to be look'd upon as an Arbitrary Disposition, whereby that Prince pretended *ex plenitudine Potestatis, omnes Primogenitorum Leges, conditiones ac Substitutiones aut revocare aut variare*, to speak with *Molina*; but rather as a Definitive sentence in the great Controversy that had arisen about the Succession between the House of *Austria* and the House of *Burbon*. To which Four things may in the first Place, be answer'd. 1. That a Will neither is nor will be accounted a Sentence. 2. That a Sentence supposes a regular and formal Process, and Tryal, a Summons, a Plaintiff. and Defendant, and that no such thing is found here. 3. that if it be a Sentence, it has been given *Indicta Causa*, the House of *Austria* having never been heard in her defence either before the late King *Charles*, or elsewhere. And 4. that even supposing that a Will could have the Force and Virtue of a Sentence, it would be found that the Case had been adjudged and decreed by the Will of *Philip IV.* so that nothing but the Execution should be wanting. But without having recourse to all that, it will suffice to say. That

* *Falsissimum est quod Reges possint Hæredem & Successorem in Regno eligere quem velint, omisso filio primogenito vel alio legitimo Successore, quod est contra omnia Jura & consuetudinem omnium Nationum inviolabiliter observatam. Butrigarius Pt. 2. q. 1. num 57. 58. dans le Traité des Droits &c. p. 140.*

Rex non potest variare Leges & conditiones primogenituræ in præjudicium Successorum, nec facere quod alius pro alio succedat. La même.

Esset namque absurdissimum asserere quod ex eo quod Majoratus ex Principis facultate institutus fuit, possit Princeps filio primogenito, absque legitima causa, Successionem Majoratus sibi in spe debitam auferre, atque illam in filium secundogenitum transmittere, atque omnes primogenitorum Leges, Conditiones ac Substitutiones revocare: ideoque dici potest ne id etiam ex plenitudine potestatis facere posse, in quo Principis potestas non minuitur, sed augetur. *Molina. Tr. de Ma. lib. 1. cap. 8. n. 31. Le même Traité p. 406.*

That in *Spain*, the King alone is not a competent Judge of the Right of Succeeding to the Crown. The Competency of a Judge, is grounded either on the Nature of the Cause, or the Disposition of the Law; and herein neither favours the King. He cannot ground his competency on the Nature of the Cause; for the Thing in Question, is the Interpreting a Fundamental Law, which is nothing else but a Contract between the King and People about the Succession to the Crown; in this Contract, the King is a Party, and consequently cannot be a Judge. I own that, for the same Reason, the People cannot be the Judge neither; but what can be inferr'd from that, but only that the King and People ought to have met in the usual Forms, deliberate, consult, resolve, and at last give the necessary Judgment. This is the meaning of the Law of the Parties. *Law 10. Tit. 1. Part. 1. Ley X. Quien Law X.* who is to explain the Laws, when any doubt arises:

When the Laws want Explanation, upon any doubt that arises about them, through the various Opinions which Men entertain concerning them, that Explanation cannot be given by any other, except he who had Power to make the Laws.

From whence it follows, beyond contradiction, indeed, the King alone, assisted by his Council, has Power to Interpret and explain the Laws of less Importance, which he has made only with the Advice of the said Council; But that as to the Principal Laws, which have been enacted in the general * Assemblies of the Kingdom, and which were made with the Advice and Consent of the People, they cannot be explain'd but in the same Assemblies, with the same Advice and Consent.

Wherefore, as I have already observ'd, there should be a particular Disposition or *Proviso* in the Laws, to make the King alone Competent Judge in these Matters; But there's no such thing. We meet indeed

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with

* See the Law, 2. Tit. 7. Lib. 6. And the Laws 7 and 8. Tit. 1. Lib. 2. of the Nueva Recopilacion before quoted at length.

with * one, which Authorizes the King Reigning to nominate Guardians to his Successor, in Case of a Minority; But it does not say any thing of the King's having Power to bequeath or dispose of the Crown by Will, or Judge of the Differences that might arise among those that might claim a Title to it: And the silence of the Law on this occasion, may be taken for a formal Negative.

But if during such a Controversy, the King comes to die without having assembled the States of the Kingdom, and the same remains undecided, Who shall then be the Judge? I answer, that in such a Case, the whole right of Judging is devolv'd to the People, assembled in the Cortes by their Deputies and other Representatives; which I prove by the Laws call'd *Seven Parts*, Law 3. Tit. 15. of the 2 Part, where after having declared that the King alone should have Power to nominate the Guardians and Regents, who ought to Govern while the Successor is Under-Age, it adds:

But if the Deceased King should have given no Command concerning that Matter, all the Grandees of the Kingdom ought immediately to meet at the Place where the King should be, as also the Prelates, the Ricos homes, and the other substantial and eminent Men at the Cities. And as soon as they are assembled, they ought all of them to swear on the Holy Evangelists, That in the first Place, they shall promote the Service of God, and the Publick Good of the Kingdom pursuant to which, they shall chuse Men in the Hands of whom they commit the Regency thereof, that they may keep the same well and faithfully.

I know very well, that this Law does, literally, only provide for the Choice of Guardians, and Regents of the Kingdom, during the Under Age of a Minor King; but I maintain, that in default of another more express Law, it ought to be a Rule in the Case of an undecided Controversy, between the Princes of the Royal Family, who claim the Crown. And, indeed, if the Right of appointing Regents, which belongs to the King alone, may, and ought to devolve to the States of the Kingdom, in case of Death,

without

* 'Tis the Law 3. Tit. 5. Part 2 of the *Siete Partidas*.

without such a Disposition, by a stronger Reason, the Right of Interpreting and explaining the Laws, and of Judging of the Claims to the Crown, ought likewise to devolve to them, since it is a Right that does not belong to the King alone, and in which the States have almost an equal share with him. But is this last our present Case? Has not the Controversy about the Succession, between the House of *Austria* and *France*, been decided? And is there no explanation of the Ancient Laws about that Matter? Certainly there is: And even one so formal and solemn, that nothing more can be desired. I mean the Law of *Exclusion*, which I have so often quoted, and which I send you * herewith. It is express, clear, and made in the General Assembly of the Kingdom; And it would be to no purpose to alledge, that that Law can have no validity but in Relation to the Marriage of *Anna of Austria* with *Lewis XIII.* and not with respect to that of *Maria Theresa* with *Lewis XIV.*; for there was no Reason of Exclusion in that first Marriage, which was not found in the other; and there were, besides, other Reasons as to the latter, which did not concur in the former.

The Laws ought to be well and rightly understood; and their true Sense ought always to be taken in the soundest and most profitable Meaning, according to the Words in which they are couch'd. Wherefore 'tis the saying of Wise Men, That the Knowledge of the Laws does not only consist in Learning them, and Writing them fair, but in knowing the true Sense of them.

Now, I'd fain know, what other Meaning can be found in this Law? And what other views more wholesome and more profitable to the Kingdom of *Spain*, than the general and perpetual Exclusions of all the Princes of the House of *France*, Eldest, Seconds, Thirds, or Fourths, and so forth, and all their Descendants, Males or Females: *Notwithstanding they should or might alledge, N. B. or pretend, that the Reasons of the Publick Good, or others on which this Exclusion may be founded, could not take Place, and ought not to be regarded in their Persons. And tho' they should farther alledge,*

E. 2.
 See the Appendix, Letter A.

alledge, N. B. That the Succession of his Catholick Majesty, and of the most Serene Princes and Infanta's, and of the other Children he has or may have, and of all the Lawful Successors (which God forbid) should have fail'd *, because, notwithstanding all this, they ought not to succeed in any Case, Time, Accident, or Event, neither she nor her Descendants, notwithstanding the said Laws, Customs, Ordinances and Dispositions, by Virtue of which, others have succeeded, and do succeed to all the said Kingdoms, States, and Lordships.

All these Words and Expressions are found in the Law of EXCLUSION, from whence they have been taken and inserted in the Act of RENUNCIATION of the Infanta Maria Theresa to the Crown: A RENUNCIATION which in the Marriage-Contract of that Infanta, was a Condition, *sine qua non*, and which is confirm'd by the *PTRENEANTREATY*, as if the same was inserted in it *Verbatim*.

It had certainly been superfluous and improper to make in the *Cortes* a New Law about the Renunciation of Maria Theresa, since there was one ready made. It was sufficient that this Renunciation should be conformable, as it is, to that Law, and, over and above, that it should be corroborated by a Treaty of Peace, which binds the House of France by a double Tie; and which is no less a Fundamental and perpetual Law, than any that was ever enacted in the † *Cortes*.

I said before, that in the Marriage of Maria Theresa, there were Reasons of Exclusion, which did not take place in that of the Infanta Anna which is self-evident,

* By this Clause the Princes of France are excluded, not only while there are in the World any Descendants from King Philip III. and King Philip IV. but also in case of a total Extinction of their Line; which shews that they are excluded, not as Children and Descendants of the Two Infanta's, but as Princes of France, to none of which it can ever be lawful to come to the Crown of Spain.

† The Reason of it is, because Treaties made *Cum Exteris* are made *Jure Regni*; Therefore they only want the tacit consent of the People, and the usual Promulgation, to have all the Force of the Principal and Fundamental Laws.

dent, since the Law was in Force Forty years before, when the Infanta *Maria Theresa* was Married, where as it was not made till the Infanta *Anna* had been Married Three Years. But these Reasons will doubtless appear doubly forcible, if we consider the Bloody War which *France* made against *Spain*, since the year 1633, and the Important Conquests the *French* retain'd by the Peace of *Munster*, not to mention the unjust War of the year 1677, under pretence of the same Claims that had been renounc'd.

Froissart, an old *French* Historian, setting forth the Reasons, which, in the year 1286, induced *Gaston VII.* Viscount of *Bearn* to constitute the Count of *Foix*, who had Married his Daughter *Margaret*, his Successor, preferably to the Count of *Armagnac*, who had married *Martha* his Eldest Daughter, makes him speak thus: Son-in-law, you are my good, true, and loyal Son, and have ever maintain'd my Honour, and the Honour of my Country; The Count of *Armagnac*, who has my Eldest Daughter, has excus'd himself when I was in great Distress, and is not come to defend me, and keep my Inheritance, in which he had a share: Wherefore I declare that he has forfeited and lost the share he expected from the Right of my Daughter his Wife, and I bequeath to you the whole Land of *Bearn* after my Decease, to be enjoy'd by you and your Heirs for ever. And I Pray, Will, and Command all my People and Subjects, that they agree to, and ratify with Me this Inheritance, which, Son-in-law, I give you, *Froissart* Tom 2. Chap 159 and 160. These Words in the Mouth of *Gaston* bear a great Weight, especially with those who are acquainted with the Passages that occasion'd them. When I peruse them, methinks I hear King *Philip*, on the point of making his Will, addressing himself to the Emperor *Leopold*, in these Words: MOST SERENE PRINCE, you are my True, my Faithful and Loyal Son, who have ever discharg'd the Duties, and shew'd, both for Me, and for my People, all the Regard that could be expected from a Son, and a Friend. You are of my Blood, and bear my Name; You have assisted me to the utmost of your Power; and you never espoused an Interest opposite to mine. The King of *France*, who has

the Eldest of my Daughters, has not barely Excused himself from defending me in Distress; He has made a Long and Cruel War against me; He has forc'd my Towns; Ravag'd my Provinces; and rais'd my Subjects in Rebellion against me; Neither the Peace, nor his Marriage with my Daughter, have made the least Alteration in his Designs of Conquering and Domineering. Father as I am, he has compelled me to yield to him a Prerogative that was not his Due, and to make him a solemn Reparation for Injuries which his Ambassadors had done to mine. Now I see him Meditating a new War against my Son, under Colour of his unjust Pretensions. Nor the Faith of Treaties; nor the Tears of my Daughter; nor the Sanctity of Oaths will hold him. He is the Enemy of my House, of my Person, and of my Dominions. Wherefore, I declare, that he has Forfeited and Lost the Share he expected from the Right of my Daughter, and I bequeath the same to you, after my Decease, and the Decease of my Son, to be enjoy'd by you and your Heirs for ever; and I Pray, Will, and Command all my People and Subjects, that they agree to, and confirm with me this Inheritance, which, most serene Emperor, I give you.

What Answer could be made to such a Speech? What could be said against such a Disposition? Certainly, nothing ——— Unless it be that what was proper at the Time of Philip III. and Philip IV. ceased to be so at the Time of Charles II. and that the latter had as weighty Reasons to make a Will in Favour of the King of France, as his Father had to make one in Behalf of the Emperor. Let us examine these Reasons; and hear, in his turn, Charles II. Speak, according to the Sentiments he must necessarily have entertain'd at the Time he Signed his Will.

'Tis true, (would he have said) the Emperor is my Kinsman and Friend; We descend from the same Ancestors; Our Name, and our Interests are the same; His House and Mine are but one and the same House; The Two Branches of it, are United by Consanguinity, and repeated inter Marriages; These are Family Contracts, by which their Dominions are perpetually entail'd on each other; Nothing was more expressly recommended to us by our Predecessors, than the maintaining this Union, which,

which, indeed, has been so happily cultivated, on both Sides, that hitherto no War, no Quarrel, no Coldness, has happen'd between the Two Branches; On the Contrary, they have ever preserv'd a Sincere Amity between them. 'Tis true, likewise, that the Emperor now Reigning, has ever given me singular Marks of Fraternal Love. He has on all Occasions, supported my Interest; He has assisted me in my Necessities; He has join'd his Forces with mine, He has been Friend of my Friends, and Enemy of my Enemies. The King of France, on the contrary, has been the Enemy of my Father, and Myself. He has caus'd his Grey Hairs to go to the Grave with Sorrow, and he has fill'd my Reign with Trouble. Besides, he has no manner of Right to the Crown, Being excluded from it, with all his Posterity, by the Laws of the Kingdom, and by the Contract of Marriage of his Mother, and his own, which, however, are the only Titles on which he may ground his Claim. Therefore his Pretensions are the most unjust in the World; I knew it full well, but I find not in Me, either Force or Courage to oppose them. He has Overcome Me all manner of Ways. While he only made War against me Abroad, I made a Shift to defend my self; But he has found means to assault me at Home. His Bribes have penetrated as far as my **PRIVY COUNCIL**. I still behold, indeed, several Ministers who generously adhere to the Emperor's Rights, and the Constitution of the Monarchy; But those I confide in are in the Interest of France. Now I find my self on my Death Bed, and ready to give up the Ghost; In this Condition, I yield to those who have freest Access to me; whose Character appears to me the most Venerable; and who ought to be best skill'd in Cases of Conscience. I resign my self into their Hands, and abandon my self to their Direction. They will have all revok'd I have said, resolv'd and maintain'd during the whole Course of my Life, in Relation to the Succession; ——— I revoke it. They will have me Annul the Laws of the Monarchy ——— I Annul them. They will have Me Overthrown at my Death, all that my Grand-Father, my Father, and my self, have endeavour'd to Rear up, ——— I do it. They will have Me in short, deliver up Spain to Her greatest Enemy,

and remove him from the Succession whom the Laws call to it — I consent to it, I will have it so, and set my Hand to whatever is offer'd me. If in this I do amiss, let my directors of Conscience Answer for it. As for me, who am no more than a shadow on Earth, I think I cannot do better, than wholly to Submit to them.

POOR SPAIN, what wretched Extremity art Thou fall'n into, to see thy Fate in the Hands of an Agonizing King, and of Two or Three Priests, either Corrupted, or Incapable, of any sort of Government !

Second Question. Whether the Queen of Great Britain's Engagements with her Allies go no further ?

I think we ought not to look for Her Majesty's Engagements higher than the Year 1701, and the Treaty, concluded that Year, between the Emperor, and the King of Great Britain, and the States General of the United Provinces. This is a strict Alliance for removing the Great and Common Danger, whereby the three Powers declare, Artic. VIII. That the War being once begun, it shall not be Lawful for any of the Allies to Treat of Peace with the Enemy, unless it be jointly, and with the Participation and Advice of the other Parties ; nor shall the said Peace be concluded, till a Just and Reasonable Satisfaction has been obtain'd for the Emperor : These are the very Words, *Nisi adepta prius, pro Casarea sua Majestate, Satisfactio aqua & ratione conveniente.*

The Treaties made in the Years 1703 and 1704, with the King of Portugal and Duke of Savoy, follow that of the Grand Alliance, and furnish us still with more express Engagements. The Restitution of the Monarchy of Spain to the House of Austria is therein laid down as a Foundation ; and in the Treaty with Savoy, it is declar'd in particular, that the Queen of Great Britain, and the States General, look upon that Restitution as THEIR OWN CONCERN. To which purpose be pleas'd to observe, that altho' this Restitution be not mention'd, in express Words, in the Specifick Demands either of Her Britanick Majesty, or of their High-Mightinesses, deliver'd at Utrecht on the 5th of March, yet it is comprehended therein

by means of the *Clause of Reciprocal Support* or **GENERAL CLAIM**, which is inserted therein; the Plenipotentiaries of Her Majesty and their High Mightinesses having declared in full Congress, upon the Representations of the Emperor's Ministers, *That they understood it so, and that was their Intention.*

We have next the *Articles Preliminary* of the Year 1709, signed by the Ministers of the Three Powers; which signing rendred them, if not an Obligatory Treaty, at least an Authentick Deed of their Common Sense and Resolution, with Respect to a Future Peace.

The III. of those Articles imports, ' That the most Christian King shall, from this Time, acknowledge, Publicly and Authentickly, as also afterwards, in the Treaties of Peace to be made, King *Charles III.* in the Quality of King of *Spain*, the *Indies*, *Naples*, and *Sicily*, and generally of all the Territories dependant, and comprehended under the Name of the Monarchy of *Spain*, in what part of the World soever situate; (except what is to be given to the Crown of *Portugal* and Duke of *Savoy*, pursuant to the Treaties between the High Allies, and the Barrier in the *Netherlands*; which the said King *Charles III.* is to put into the Hands of the said Lords, the States-General of the United Provinces, agreeably to the Tenour of the Grand Alliance, in the Year 1701; except also what shall be hereafter mention'd, touching the upper Quarter of *Gelderland*; and also except the Agreements yet to be made with the said King *Charles III.* without excepting any Thing more, &c.

The IVth. Article is Couch'd in these Terms: ' And forasmuch as the Duke of *Anjou* is at present in Possession of a great Part of the Kingdoms of *Spain*, of the Coast of *Tuscany*, the *Indies*, and part of the *Netherlands*, 'tis reciprocally agreed, That for the sure Execution of the said Articles, and of the Treaties of Peace to be made, the said Treaties shall be finish'd within the Term of two Months, to begin from the first Day of the ensuiug Month *June*, if possible; during which Time his Most Christian Majesty

Majesty shall so order it, that the Kingdom of
 Sicily shall be put into the Possession of his Catho-
 lick Majesty Charles III. And the said Duke shall
 depart in full Safety and Freedom, out of the Limits
 of the Kingdoms of Spain, with his Consort, the
 Princes, his Children, their Effects, and, gene-
 rally, all Persons that are willing to follow them:
 And if, before the said Term expire, the said Duke
 of Anjou do not consent to the Execution of the
 present Agreement, the most Christian King, and
 the stipulating Princes and States, shall, by Concert,
 take proper Measures that it may have entire Effect,
 and that all Europe may, by the full Performance
 of the said Treaties of Peace, speedily enjoy perfect
 Tranquility.

By the VIth. Article is agreed, That the Monarchy
 of Spain shall remain intire in the House of Austria,
 in the Manner above mention'd. None of its Parts
 shall ever be dismember'd; neither shall the said
 Monarchy, in whole, or in Part, be united to that
 of France; nor shall one and the same King, or a
 Prince of the House of France ever become Sovereign
 thereof in any manner whatsoever, either by Will,
 Legacy, Succession, Marriage-Compact, Donation,
 Sale, Contract, or any other way whatever, &c.

Let us make a Summary Recapitulation of all this:
 By the Treaty of the Year 1701. the Allies stand en-
 gaged, not to make a Peace, till they have obtained a
 just and Reasonable Satisfaction for the Emperor; The
 Treaties made in the Years 1703 and 1704, lay down
 the entire Restitution of the Monarchy as the main
 Foundation; The Preliminaries of 1709 explain the
 Manner of that Restitution, and how far it ought
 to extend; And the Specifick demands of the Allies
 deliver'd at Utrecht contain it, either expressly, or
 implicitly, by a Clause of Support, or General Claim,
 that was inserted therein for that Purpose. I know
 not whether I mistake, but methinks these are
 FORMAL, EXPRESS, and REPEATED
 Engagements, for the Entire Restitution of the Monar-
 chy of Spain to the House of Austria; Nevertheless,
 the Scheme contain'd in the Speech, runs altogether
 upon

upon a *Partition*; whereby *Spain* and the *Indies* are left to the Duke of *Anjou*; and only the *Low-Countries*, the Kingdoms of *Naples*, *Sicily*, and *Sardinia*, the *Dutchy of Milan*, and the Places situate on the Coast of *Tuscany*, are to be allotted to the Emperor. Now, pray in what Sense must we understand these Words of the same Speech: *I have not omitted any thing which might procure to all our Allies, what is due to them by Treaties?* Is not the *WHOLE* more than one *PART*? Is the Procuring one *Half*, the same with Procuring an *INTIRE RESTITUTION*?

Third QUESTION. Whether by this Scheme the Interest of the Common Cause is sufficiently secured?

This Question follows the preceding, the more naturally and necessarily, because in the same Place where Her Majesty is pleas'd to say, *She has not omitted to procure to All her Allies what is due to them by Treaties*, She adds, *And what is necessary for their Security.* I shall not spend Time in Proving, That that Interest and Security can no where be found, but in a *Perfect Ballance of Power* between the Two Houses of *Austria* and *Bourbon*, because where every Body seems to agree in it. The Question therefore, now, is not whether that Ballance ought to be restor'd, But wherein it consists? And in what Degree of Restitution it may be found? The Party who at present prevail amongst You, look for it in a *Partition* of the Monarchy of *Spain*, of which they Design the best share for the House of *France*, and the least for the House of *Austria*. I know not upon what Foundation they may have conceiv'd that Notion, but I'm sure that before the Year 1711, both Her Majesty and the *British* ——— entertain'd far different Thoughts.

I may quote the Queen's Speech to her Parliament of the 9th (20th.) of *November* 1703. and the Addresses of Thanks which both Houses presented thereupon to Her Majesty: For therein you will see, That her Majesty and her Parliament held it then for certain and unquestionable, That there could be no Ballance of Power in *Europe*, without *Recovering the Monarchy of Spain from the House of Bourbon, and restoring it to the House of Austria.* The Queen deliver'd Her Thoughts

Thoughts yet more forcibly upon that Subject in Her Speech to both Houses on the 27th of *October* (7 Nov.) 1705. ' Nothing, said Her Majesty, can be more evident, than that if the *French* King continue Master of the *Spanish* Monarchy, the Ballance of Power in *Europe* is utterly destroyed, and he will be able in a short Time, to engross the Trade, and the Wealth of the World.

' No good *Englishman* could at any time be content to sit still and acquiesce in such a Prospect: And at this time we have great Grounds to hope, that by the Blessing of God upon our Arms, and those of our Allies, a good Foundation is laid for restoring the Monarchy of *Spain* to the House of *Austria*; the Consequences of which will not only be safe and advantageous, but glorious for *England*.

' I may add, We have learnt by our own Experience, that no Peace with *France* will last longer than the first Opportunity of their dividing the Allies, and of attacking some of them with Advantage.

This was the Sense of the Queen; and you may see that of the Lords in their Address presented on the 1st, (12th) of *November*. ' Your Majesty, say they, is pleas'd to give us Warning, of Danger of the being so far deluded, as to depend again on the Faith of Treaties, with an Enemy who has never yet had any other Regard to them, than as they served the Purposes of his Interest and Ambition: And to inform us, That no Peace can be Lasting, Safe, and Honourable, till the *Spanish* Monarchy be fixed in the House of *Austria*, and *France* reduced to such a Degree, that the Ballance of Power in *Europe* be again restored.

' We humbly concur with your Majesty in these your Wise and Noble Sentiments, and we faithfully Promise, that no Danger shall deter us, nor any Artifice, divert us, from doing all that is in our Powers to assist your Majesty in carrying on the War, till you shall be Enabled to procure such a Peace for *Europe*, &c.

The Opinion of the House of Commons was thus express'd in their Address presented the 6th (17th) of the same Month: ' We are fully convinc'd, said they, That

‘ That the Ballance of Power in *Europe* can never be restored, till the Monarchy of *Spain* is in the Possession of the House of *Austria*; and that no Peace with *France* can be Secure and Lasting, whilst the *French* King shall be in a Condition to break it; and therefore your faithful Commons are fully resolved effectually to enable your Majesty to carry on the War with Vigour, to Support our Allies, and make good such Treaties as your Majesty shall judge Necessary, to Reduce the Exorbitant Power of *France*, &c.

The Parliament being met again on the 3d (14th) December 1706. the Queen spoke to both Houses in these Words: ‘ I hope we are all met together at this time with Hearts truly thankful to Almighty God, for the Glorious Successes with which he has blessed our Arms, and those of our Allies, thro’ the whole Course of this Year; and with serious and steady Resolutions, to prosecute the Advantages we have gain’d, till *We reap the desir’d Fruits of them in an Honourable and Durable Peace*. The Goodness of God has brought this happy Prospect so much nearer to us, that if we be not wanting to ourselves, we may, upon good Grounds, hope to see such a Ballance of Power establish’d in *Europe*, that it shall no longer be at the Pleasure of one Prince to disturb the Repose, and endanger the Liberties of this part of the World.

‘ A just Consideration of the present Posture of Affairs, of the Circumstances of our Enemies, and the good Disposition of our Allies, must needs excite an uncommon Zeal, and animate Us to exert our utmost Endeavours at this critical Juncture.

This excellent Speech, so worthy of the Queen that spoke it, was, on the 5th (16th) of the same Month, follow’d by an Address from the House of Lords, which was no less applauded by the *British* Nation, and all *Europe*. Their Lordships expressly declared themselves for the Restoring of the whole Monarchy of *Spain* to King Charles the Third, as an Article without which it was impossible to make a Safe and Honourable Peace; And added, ‘ That if they should not do all that lay in their Power towards improving the Advantages
‘ which

‘ which the Divine Providence had given to Her Majesty and Her Allies, they should shew themselves unthankful to God, inexcusable to Her Majesty, and manifestly wanting to their Countrey and the Common Cause of *Europe*.

The ill Success of the Enterprize against *Toulon* made no Alteration in the generous Sentiments of the House of Lords: On the contrary, their Concern for the Common Cause appear’d the more Lively, and on the 19th (30th) of *December* they came to a Resolution, *That no Peace could be Safe or Honourable for Her Majesty or Her Allies, if Spain and the Spanish West-Indies were suffer’d to continue in the Power of the House of Bourbon.* The Commons, who, at that time, shew’d no less Zeal than the Lords for the entire Restoration of the Monarchy of *Spain*, readily join’d with their Lordships in an Address, which was presented to the Queen on the 23d of *December* (3d *January*) 1707-8 in these Words: ‘ We your Majesty’s most Dutiful and Obedient Subjects, the Lords Spiritual and Temporal, and Commons, in Parliament assembled, having been always fully perswaded, *that nothing could restore a just Ballance of Power in Europe, but the Reducing the whole Spanish Monarchy to the Obedience of the House of Austria,* and having seen several Great Parts of that Monarchy, by the Blessing of Gods upon the Victorious Arms of your Majesty and your Allies, already in the Possession of that House, do think not only Seasonable, but Necessary at this Juncture, humbly to offer this our Unanimous Opinion to your Majesty, *That No Peace can be Honourable and Safe for your Majesty, or Allies, if Spain, the West Indies, or any Part of the Spanish Monarchy, be suffer’d to remain under the Power of the House of Bourbon.*

To this Address the Queen made the Generous and Wise Answer I hinted before. *I am FULLY of your Opinion,* said her Majesty, *That no PEACE can be HONOURABLE or SAFE for Us, or for our Allies, till the ENTIRE Monarchy of Spain be restored to the House of Austria; and very well pleased to find, That the measures I have concerted for the Suc-*
cour

court of the King of Spain, are so well approv'd by both Houses of Parliament.

The Parliament, whose Generous Resolutions I have quoted, was dissolv'd in *April 1708*; But another was call'd, which, at their Meeting, appear'd to be in the same Disposition. Her Majesty's just Affliction for the Death of her Royal Consort, not permitting her to go to the Parliament, She appointed Lords Commissioners to represent Her Person, who in their first Speech to Both Houses, told them; 'That Her Majesty had not the least doubt, but that this Parliament would be of the same Opinion with Her last, as to the Vigorous prosecution of the War, and the Ends of it, believing it impossible, the Representative of the *British Nation* could endure to think of losing the Fruits of all our past endeavours, and the great Advantages we had gain'd, by submitting at last to an insecure Peace.

Whereupon the Lords, who still retain'd their Generous Intentions, *assured her Majesty*, by their Address of the 19th of *November 1708*, That they would give their utmost assistance in every thing, for the prosecuting of this just and necessary War; being more and more convinc'd, That no Peace can be Safe or Honourable, until the whole Monarchy of Spain, be restor'd to the House of Austria.

After such VENERABLE AUTHORITIES, I almost make a Scruple of Conscience to send you any Reflections of my own. You see in them the Thoughts of the late King William, the Deliverer of your Country; Those of Her present Majesty; Those of Both Houses of Parliament, jointly and separately. In them you see the purest Sense of the whole *British Nation*; of the High Allies; and certainly of all Europe. Yes, all Europe, whether in, or out of the Grand Alliance, speaks in this particular, by the Mouth of the *British Parliament*, and cries out with one Common Voice, *The War is just and necessary*; — *The Ballance of Power in Europe cannot be restor'd, but by restoring the whole Monarchy of Spain to the House of Austria.* — *No Peace will be Honourable,*

rable, Safe, and Lasting, while the French King is in a Condition to break it.

What can I say more forcible, more convincing, and more to our present purpose? Shall I call you back to *Experience*, the surest, tho', at the same time, the dearest of all ways of Information? We have a sad Experiment of above Fifty Years, which I reckon from the Peace of *Münster*; for I readily agree with you, that, before that time, there was less Reason to be upon one's Guard against *France*; and that her Power, abstracted from any Alliance, was less to be fear'd. But consider then, I beseech you, since these Famous Treaties, which Restoring Peace to the Empire and our Provinces, seem'd to have restor'd the Ballance we pursued, and secur'd the Liberty of *Europe*. See with what Success she carried on the War against King *Philip* in *Italy*, *Spain*, and the *Low-Countries*. Behold upon what disadvantageous Terms she forc'd that Prince to make a Peace in the year 1659.

I will venture to tell you a thing, which, tho' contrary to the opinion which I find at present prevails in *England*, is, nevertheless very true; to wit, That as soon as that Peace (the *Pyrenean Treaty*) was signed, the Ballance of the Two Powers was destroy'd: From that fatal Day the Influence of *France*, reach'd from one end of the World to the other, almost without exception. It was felt in the *East* and *West-Indies*, by the enlarging of their Trade, and the Settlement of several Companies; In *Lorraine*, by the Oppression of Duke *Charles*, and his Subjects; in *Spain*, by the solemn Reparation *France* exacted from King *Philip*, about the Dispute that happen'd between the Two Ambassadors; In *England*, by the Sale of *Dunkirk*; At *Genoa*, by the Necessity that was impos'd on that Republick, to expel Cardinal *Imperiali*, one of their Nobles, who had taken Sanctuary there; In *Africa*, by the Wars against *Tunis*, *Algier*, and *Tripoli*; At *Rome*, by the Treaty of *Pisa*, the erection of the Ignominious Pyramid, and the Legation of Cardinal *Chigi*, the Pope's Nephew; All which happen'd within the space of Seven Years. Then came the War of

1667, in which we saw Eleven Towns taken in one Campaign ; and the whole *Franche Comté* in a few Days. This occasion'd the *Tripple Alliance* in 1668 ; but the same was broken two Years after.

In 1670, *The most Christian King* seiz'd upon all *Lorraine*, nor durst any Body oppose him. In 1671, the bare Progress he made into the *Netherlands*, to fortify *Dunkirk*, cast all *Spain* into Alarm. In 1672, he fell on our Provinces, and penetrated beyond *Utrecht*. *The King*, says *Count Rabutin* in his History, *did not vouchsafe to send an Herald to the Hollanders, as the custom is with equal Enemies ; he treated them as Rebel Subjects.* A Detail of what has happen'd since would be tedious ; and then you are so well acquainted with it, that there's no need to swell this Letter with it. You know upon what Conditions the Peace of *Nimeguen* was made ; and how well it was observ'd ; under what pretences *Strasburgh* was taken ; *Casal* Bought ; *Luxemburg* Conquer'd ; *Genoa* Bombarded ; and afterwards oblig'd to send their Doge into *France*, to beg the King's Pardon, and express their Sorrow for the Misfortune they had to have incurr'd his Displeasure. You are not Ignorant upon what Foot the Truce was made in 1684 ; nor how powerful and dreadful the Influence I just now spoke off, was in *Germany*, in *England*, and here. Call to mind the Business of the *Palatinate* and *Cologne* ; the Transactions in *England* ; and at *Rome* from the year 1685 to 1689. Then take a review of the Events of the last War, and of the Haughty Carriage of *France* in the Treaty of *Ryswick*. Attend the steps of that Crown in the Execution of that Peace ; in her Treaties of Partition ; and in the General Invasion of the *Spanish* Monarchy. Consider, with all these, Her State, her Splendor, her Loftiness, her Credit, her Power : View the Riches of her Commerce ; her vast Revenues ; the great Number of her Fortified Towns ; the Extent of her Conquests ; and the Strength of her Armies and Fleets. Certainly, if you attentively reflect upon all these ; if you consider, that since the Peace of *Munster*, *France* is only beholding to her own Forces for all her Advantages and the

Predominante she has Usurp'd over the rest of *Europe*; That she always made War without Allies; That *her Hands*, like those of *Ismael*, have been lifted up against all, and those of all against her; That she has set up her Tents in sight of other Nations; That she has defeated their Armies; Forc'd their Strong Towns; and Conquer'd their Provinces; and that she never made any Treaty with them, without retaining part of her Conquests. If, I say, you fix a while your Thoughts on all these Things, and with an unprejudic'd Mind you afterwards consider the Condition of the House of *Austria* in her Two Branches, what she has been able to do against so many Unjust Assaults, since the Time of the same Treaty of the *Pyrenees*; the Constant and Irreparable Losses; the necessity which the Empire, *England*, *Holland*, and several other Princes and States, have been under to join their Forces and Counsels for their Common Safety; the small Success which their United Arms had in the last War; and the Danger they were in of a total Subversion, at the Beginning of this: You will, undoubtedly agree, That the taking away from the House of *Austria* one Half of her Dominions, to give them to a Prince of the House *France*, would not be the means to restore the Balance, and Secure the Liberty of *Europe*. There's no need of any great Skill in the Mathematicks to comprehend, That the more one takes from the Weak to give to the Strong, the farther one goes from the point of Equality; especially, if the Forces of the Stronger are *United*, and those of the Weaker *Divided* and Dispers'd.

This nevertheless, is the Upshot of the Scheme of those who are for a *Partition*. They do not deny the necessity of settling a Ballance of Power between the Two Houses; but they pretend that the Method which for these Fifty years past has been used to bring it about, is improper; and this fine Notion they are apt to support by the small Success of our Efforts, during the two last preceeding Wars. They think *France* was not sufficiently strengthened by all the Conquests she gain'd thereby; nor the House of *Austria* sufficiently weaken'd by her Losses, and upon

on this Supposition, they now propose to us, as a *wonderful Expedient*, the taking from that House all *Spain* and the *West-Indies*, and to leave her only the *Low-Countries*, the Kingdoms of *Naples*, *Sicily*, and *Sardinia*; the *Dutchy of Milan*, and the places on the *Coast of Tuscany*.

Were not you one of that Party, you might, with just Reason, ask me, By what Arguments so strange a Notion can be maintain'd? and you would be surpriz'd at the reading of what has been said, and Written about it. ONE, guided by his *Fiery, Pragmatical* Genius, complains, That the Two last Emperors, and even the present, have not concurr'd as they ought in the Operations of War; That they believed *Great Britain* was to do All; That they have not even improv'd the Advantages she has procur'd them; and that since they would not help themselves, neither are others oblig'd ever to make War for their Advantage. Another, with a *Grave* Tone, and supercilious Nod, would insinuate, That 'tis a Piece of Folly in us, the Guarding our selves against present and near Dangers, instead of preventing those which may happen one Day. He beholds with pity the great Efforts we make for wresting the Monarchy of *Spain* out of the Hands of *France*, instead of taking right measures to reduce within just Bounds the future *Exorbitant Power* of the House of *Austria*.

' In former Wars, says a Politician, *whose Memoirs are not Pieces writ at Random*, the Passions of Men, and not the Interests of Nations were Consider'd. When they made Peace they only apply'd themselves to put an end to one War, but did not think of preventing another — *Europe* having always confin'd herself to present Conjunctures and Necessities, without any Provision for what was to come, or taking Care of herself, never went upon certain Principles in those Matters.

' In the time of *Charles V.* a great part of *Europe* conspir'd against *France*, and most of the other part were frequently Idle Spectators, and wou'd not consider that they themselves must be sunk by the

‘ Ruin of *France*. But Miracles, such as don’t happen every day, sav’d her.

‘ Unforeseen Accidents did in the same manner save the House of *Austria* about the middle of the last Century. Her Excessive Power had struck her Neighbours with Fear. Her Ambitious Designs were discover’d, and she then became the Object of Common Aversion. But now these Aims and Views are chang’d, *France* is abandoned, the House of *Austria* is espoused, and the latter must Reign while the other Obeys.

‘ All the Plans of Peace at present discours’d, are for enriching the House of *Austria*, and Impoverishing *France*, they not only propos’d to take from her what she claims by Virtue of Testamentary Settlements, and the Rights of Lawful Succession, but even dispute what the Treaties of *Aix la Chappelle*, *Nimeguen* and *Ryswick* have confirm’d to her, and some are also for taking away what was granted her by the Treaty of *Westphalia*.

‘ I cannot forbear to say that *Europe* wou’d be in a Miserable Case, should *France* subscribe to such hard Conditions, not that there is any Cause to apprehend that she wou’d not observe them, if she did accept them. For her Finances so exhausted that ’tis impossible to recover them, her Lands almost Uncultivate and Desart, by the prodigious Number of Men which she has lost, her Poverty, and her Misery, secures us of her performance. She wou’d continue Quiet but the rest of *Europe* wou’d not;

‘ All these Changes of Parties, and Systems will ever be of dangerous Consequence, and produce nothing but the Ruin and Desolation of Countries.

‘ *Europe* ought to have but two Essential Points in View, viz. her Liberty, and Repose. In order to make sure of those two Fountains of Human Felicity, two Precautions must be taken, two Important Preliminaries are absolutely necessary, one is to put our selves in the Place of those for whom Enterprises are undertaken, or Treaties made, and not to look upon our selves as Mortals, but to extend our Reflection and Care beyond the present Times, and to con-

consider more of what's to come than what is past:
 Such an Advantage offers now, as may perhaps in
 Ten Years Time prove the Ruin of those who shall
 accept it. It sounds well to humble an Enemy, who
 has given us Just causes of Alarm, and seems to be
 profitable to load a neighbouring State, which gives
 us Umbrage, with heavy Fetters, but in time she
 will break them off. The humbled Enemy will leave
 the Revenge to his Successors, who will Re-esta-
 blish their Forces, and the Hatred will turn against
 those who were so fond of laying hold on the Oppor-
 tunity, and they will be Crush'd.

'Tis necessary for preserving the Liberties of *Eu-
 rope*, that the two Houses shou'd Subsist and Flourish
 so long as *Rome* and *Carthage* preserv'd their Power
 entire; the World was free, but as soon as *Rome* was
 permitted to Triumph over *Carthage*, the other Re-
 publicks and Kingdoms became Provinces of the
Roman Empire. The two Houses of *Bourbon* and
Austria, for which the Blood of so many Thousand
 Men has been shed, are the *Rome* and *Carthage* of
Europe, whose Liberty depends as much on their
 preservation, as that of the whole World did on the
 Safety of those two famous Republicks. And as *Eu-
 rope's* Liberties depend on the Preservation of those
 two Houses, so her Repose depends on a certain Pro-
 portion and Equality of Forces, which ought to be
 establish'd between both, so that while the one has
 no Hopes of gaining Advantage of the other, they
 will not be easily brought to Attaque one another,
 but serve as a Rampart and Defence against one ano-
 ther to the Inferiour States.

In order to obtain this Equality, Endeavours must
 be us'd to find out a true Estimate of the Strength
 and the Weakness of either House, and not only the
 Dominions of which each is compos'd must be con-
 sider'd, but the Genius and Character.

France is undoubtedly the best, and the most con-
 siderable Kingdom in *Europe*. Its Provinces are all
 Contiguous and Joyn together without any other ly-
 ing betwixt their Boundaries to incommode them, so
 that the whole forms a Noble Continent.

The Fruitfulness of its Soil, the Number of its Cities, the Multitude of its Inhabitants, their Active Genius, which is equally addicted to Arts, Commerce, Sciences and War, their firm Adherence to their Monarchy, and the Race of their Princes for which they never refuse to Sacrifice their Lives and Fortunes, have always render'd this Kingdom formidable, even when her Boundaries were not so large as at present.

Yet tho' they are now of a greater Extent, she is perhaps the less to be fear'd. Her own Grandeur lies upon her as a dead Weight, and Occasions such necessities, as her Revenues are not able to supply; For *France*, by extending her Frontiers, and (if I may so speak it) by enlarging her Circle, has taken in Countries which she is oblig'd to keep against themselves, instead of Drawing any Succours from them for the ease of her other Dominions. Formerly her greatest Armies, did not take away so many Men from Tilling the Ground, as are now indispensibly necessary for her numerous Garrisons. Formerly Eighteen Millions were enough to fit out great Fleets to Sea; but now that Sum is scarce sufficient for the Security of her Harbours; Her ordinary Charge can no longer Subsist, but by such Efforts as her Subjects are not able to bear.

The Provinces which compose the Dominions of the House of *Austria* take up infinitely more Ground than *France*, and some which are as fruitful and every whit as Populous.

The Imperial Dignity, which raises this House above others is Elective, and is not annex'd to it, but she has possess'd it for above two Centuries past, and the Use which she makes of it, and that long Possession which is become in a manner Hereditary, do abundantly Recompense all the Disadvantages in the Situation of her other Dominions.

The House of *Austria* may be call'd the Sovereign of *Germany*, she possesses those vast Fields of *Mars*, That inexhaustible Nursery of Warriors, The Terror of the Ancient Masters of the World, They are the Posterities of those who made *Augustus* Weep for Despair, and often oblig'd the other Emperors to be

as it were their Tributaries. This House Governs and Determines them as she pleases, even without consulting them. If they are not her Subjects, they are at least so Devoted to her Will, and so accustom'd to defend her, that to Attack her is to establish its Rule over them, and to add new Forces to her.

Upon these Pictures, which I have neither Flatter'd nor Wrong'd, an Inquiry ought to be founded, which of the two Houses can form, or is best able to carry on for whole Ages, the most dangerous Enterprises against the Liberty of *Europe*, and 'tis that, which tho' it be Weakest, ought to be look'd upon as the Strongest.

I have said that, in order to establish this Equality, 'tis in the Power of Men to give, and necessary for them to make a true Judgment, of the Force and Weakness of both Houses. I have propos'd such Principles, as I think lead to it, and I do assert (as a Truth which needs not much Proof) that such a solid Estimate cannot be made till after the contending Houses, are brought to agree upon a Peace.

This wou'd be no difficult Enterprize either for all *Europe*, or for our Republick alone, if she would give her self the Honour to put it in Execution.

By this way of Arguing, so contrary to that of the late King *William*, the present Queen, and both Houses of Parliament, during all their Sessions from 1701 to 1711, you may easily discover the new System, and the new Way of Conceiving a Ballance of Power between both Houses. It is not however a *Dutchman* who speaks, but a Minister of *France*, who, under the Name of a *Dutchman*, endeavour'd in 1709, to amuse us with the Glory of a Secret and particular Negotiation, by which, upon separating from our Allies, they wou'd seem to have made us Arbiters of their Fate. The Piece* from whence I took this Extract, is not the first which that Author thought fit to Publish in our Provinces. In 1707, he took to himself the Title of a Counsellor of *Geneva*, and under that Name gave the

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Three

* 'Tis entitul'd *Reflections on the State of Europe*, is short, but very full. An Anonymous Author gave a very solid Answer to it. They were both Printed together in 1709, without the Name of the Bookseller, or place where.

Three Important Advices. 1. That *France* was our Ancient and best Friend. 2. That the House of *Austria* watch'd only for a proper occasion to invade us. 3. That we were raising within our selves a Power, whose Interest it is to deprive us of our Liberty; and wou'd take all opportunities to destroy us; That none but *France* could deliver us from the Danger, and that it concern'd us as we valu'd our own Safety, not to put her out of a condition to assist us against you in case of need. These Suggestions, and all the rest which *France* made use of to break us off from the Grand Alliance, were ineffectual; nay, they fill'd us with Indignation against those who Addressing us thus, thought us capable to abandon our Allies, for any particular Advantages that the Enemy cou'd offer us; perceiving then, that the Good Sense and Probity of the *Dutch*, render'd them Proof against such Arguments. *France* turn'd them upon *England*, where they were better relish'd than with us, tho' for what reason I know not. They prevail'd so much there in a little time, that the *English* came to propose the same System, and to defend it by the same Arguments. You have them Sir in the extract which I have Just now given you from one of the most dangerous Pieces which *France* got Publish'd among us, while she had any Hope to break us off from our Allies. The Author does not explain himself so particularly as to the Partitioning the Monarchy as they do now in *England*, but 'tis easie to be perceiv'd, that he has the same Superstructure in view, since he lays down the same Foundations, viz. That in order to restore an Equilibrium betwixt the Two Powers, and to secure the Liberty of *Europe*, we must strengthen the House of *Bourbon*, and weaken the House of *Austria*.

But in Truth his Arguments are more proper to give us an Aversion to his Sentiments than to make us agree to them. Does he think to perswade any Man, that now the Boundaries of *France* are more extended than formerly, she is the less to be dreaded? and that her own Grandure is a Dead Weight, which embarrasses and bears her down, and that by extending her Frontiers, and enlarging her Circle, she has inclos'd Countries which she is oblig'd to defend against the Inhabitants,

tants, instead of drawing any Assistance from them? You your self, Sir, tho' you be of the strongest side, cannot believe this.

Are you fully convinc'd of the force of this Argument, that the true Way to reduce the exorbitant Power of *France*, is to give her all she Demands, and considerably to enlarge her Dominions?

Are you fully perswaded, that when *Spain* and the *Indies* are taken from the House of *Austria* and given to the House of *Bourbon*, that the former will be in a better Condition than before, to Ballance the Power of the latter, and to protect the other Powers of *Europe* against her Designs?

Do you think it a Demonstration, that the House of *Austria*, which while she possess'd the whole *Spanish* Monarchy was not able to resist *France*, and found her self under a Necessity to press for the Assistance of the Two Maritim Powers, in order to preserve her Dominions, will be all on a sudden so reforc'd, when above half of the Monarchy is taken from her, as to be able to secure and defend the Liberty of *Europe*? I'm almost ashamed to put such Queries to a Man of so much Sense, Wisdom, and Love to his Country, as you are reputed to be; but Passions are rais'd so high with you, that the most Demonstrable Truths, have as much need of being prov'd, as the most abstracted Notions.

How far was I Two years, or only a year and a half ago, from thinking that at this time, I should be oblig'd to prove to an *Englishman*, That the welfare of *Europe* did not consist in the weakning the House of *Austria*, and aggrandizing that of *Bourbon*, and that for establishing a Ballance of Power betwixt Them, *Spain*, and the *Indies*, was not to be taken from the former, and much less to be given to the latter?

The *French* Minister is in the Right to say, That in order to come to a true knowledge of an Equilibrium betwixt the two Houses, we must endeavour to get a good Estimate of the Strength and Weakness of both: But the Method which he proposes is not proper to come at it. 'Tis not by the Diversity of Provinces and Languages, or by the Extent of Dominions, that the Power of Princes is to be known; for if so, the Grand Seignior alone, wou'd
be

be more Potent than all *Europe* together. Nor is it to be known by the Number or Majesty of Crowns, for Power and Dignity don't always keep pace together.

The Power of Princes is to be known, I. By the Greatness of their Revenues ordinary and extraordinary.

II. By the Richness and Extent of their Trade.

III. By the number of their Troops in time of Peace and War.

IV. By the State of their Marine and Naval Forces.

V. By the Number and Goodness of their Fortresses.

VI. By the unnecessary Expences which they defray.

VII. By their Victories and Conquests.

'Tis not necessary to enter into deep Inquiries, nor to know the Secrets of the Two Houses, to be convinc'd that the House of *Bourbon* has in all those Respects infinitely the Advantage of the House of *Austria*.

As to the first, this is not a proper place to Treat of Funds from whence the *French* King draws his Revenue, nor of the Time when, nor the Method how; I shall content my self to say in General, and I hope no *Frenchman* who understands these Affairs will deny it, That the fix'd Revenues of the King of *France* did in 1688, amount to near Sixty Millions of Crowns, and that the extraordinary Sums he has rais'd since that time, were never less than Forty Millions of Crowns; Nor will it be disown'd, that sometimes they exceed'd Two Hundred Millions, as at the time when he set up his Mint Bills, to which we must add the Capitation, and the Tenth Penny, which has chang'd the Constitution of the Finances, but certainly have not lessen'd them; in short, 'tis certain that the King of *France* does actually levy above a Hundred Millions of Crowns per Ann. Those of the Monarchy of *Spain*, were formerly valu'd at Thirty Six Millions of Crowns, including the Revenues of the *Indies*, *Naples*, *Milan*, and the *Netherlands*, and the Concessions or Grants upon the Clergy; but they have been so Alienated, Mortgag'd, and over Mortgag'd, that there is not a Man in the World, who can give a clear and certain state of them: As to extraordinary Revenues, the Kings of *Spain* have few more but free Gifts, which they

they obtain on certain occasions, and the half years of the Mortgag'd Revenues, which they detain in Cases of pressing necessity from those to whom they are Mortgag'd; but be that how it will, no King of *Spain* can ever be able to raise from his Dominions above Twenty Millions of Crowns *per Ann.* I am not so well able to give an Account of the Revenues of the House of *Austria* in *Germany*, but believe I am not mistaken if I say, they don't exceed Twenty Millions of Crowns *per Ann.* including all the extraordinaries; so that the Two Branches together, cannot spend above Forty Millions of Crowns *per Ann.* which in proportion to the Revenues of the House of *Bourbon*, makes only $\frac{2}{3}$ against $\frac{1}{3}$.

As to the Second Point, if we examine their Commerce, the proportion will be much the same: That of *Spain* is very little; that of *Naples* and *Sicily* still less; and that of the *Netherlands* nothing at all. The Treasures of the *Indies*, which Supply the Luxury of all *Europe*, don't enrich the *Spaniards*; If the Kings of *Spain* take no more of them than what's their due, they'll scarce be able to make a Million and $\frac{1}{2}$ of Crowns *per Ann.* by which we may easily Guess how much of it returns into the Commerce of *Spain*. I say nothing of the Hereditary Dominions of the House of *Austria* and *Germany*, because every one knows that they are not proper for Commerce, neither by their Situation nor Product. The Gold Mines of *Hungary* don't produce 15 *per Cent* profit to those who farm them; and if you except the Mines, and Cloth of *Silesia*, the rest signify nothing.

As to the Third Point, the House of *Austria* is so far from being equal to *France* in Number of Troops that all the Confederates together are scarce able to equal her, or at least not without extraordinary Efforts. 'Tis very well known that the King of *France* maintains Two Hundred Thousand Men in time of Peace, and Three Hundred and Fifty Thousand in time of War. The House of *Austria* when she made her greatest Efforts cou'd never exceed Two Hundred Thousand. The late King *Charles II.* in the last War, kept only Thirty five Thousand in *Spain*; Fifteen

teen Thousand in the Dutchy of *Milan*; Sixteen Thousand in *Naples*, *Sicily*, *Sardinia*, *Majorca*, and *Minorca*; Two Thousand in the places of *Tuscany*; and Twenty Thousand in the *Netherlands*; in all, Eighty Five Thousand. I know that the present Emperor has on Foot above a Hundred and Thirty Thousand Effective Men, of which a Hundred and Ten Thousand serv'd against *France*; but then it must be granted, That he exerts his utmost Efforts, and that he not only employs all the Revenues of *Italy*, but those of *Bavaria* for their Maintenance; and he has likewise been oblig'd to incredible Good Husbandry and Retrenchments of Expence. In the last place, I don't disown but that for about Sixty Years past, the House of *Austria* has in time of War maintain'd Two Hundred Thousand Men, and including the Troops of the Empire, above Two Hundred and Fifty Thousand; and I agree that she may entertain as many in time to come, provided the *Spanish* Monarchy be not taken from her. But what proportion is there betwixt Two Hundred Thousand Men dispers'd throughout *Europe*, and Three Hundred and Fifty Thousand Collected together in the Kingdom of *France* alone? Where then do we find this Exorbitant Power of the House of *Austria* against which we must take such Precautions?

As to the Fourth Point, perhaps it may be found in her Maritim Forces: How do we know but the Court of *Kienna* may equip a Fleet on the *Danube* capable to Bombard *Brest* and *Toulon*? For *Spain*, 'tis matter of Fact, that King *Charles II.* never had Fifteen Men of War together, and it is certain that the King of *France* had in 1689, a Hundred and Twenty of the finest Men of War in the World, Forty Five Gallies and Arsenals, that were not to be match'd elsewhere.

V. The same thing should be said of the Fortified Places. There are to the Number of 130 in the Kingdom, the least of which is able to Hold Out against a Royal Army; and Sixty of them, are such Master-pieces, that they are justly admir'd by all that see them. I don't doubt but that the House of *Austria* have as many, and more, but the difference is, that those of
France

France lie so Contiguous, that they seem so many Bastions round its Continent, and the Court having its Residence fix'd in the Centre, is always near enough, to dispatch Orders, and send immediately the necessary Succours; whereas those of the House of *Austria*, are dispersed in *Spain*, at *Naples* in *Sicily*, in the Dutchy of *Milan*, in *Barbary*, in the *Low Countries*, in *Hungary*, in *Transilvania*, in *Carinthia*, in *Austria*, in *Bohemia*, in *Silesia*, in the *Tyrol* on the *Rhine* and elsewhere, which in some manner Bars any Communication, besides the Frontiers which are Guarded by these Places, are ten times of greater Extent, than those of *France*. And which is more, are to receive their Garrisons, out of Two Hundred Thousand Men, which is the All the House of *Austria* can keep: So that it were to be wish'd that these places were fewer in Number.

VI. Unnecessary Expences, don't at all Contribute to the greaness of Princes, but they may serve as Indexes, to form a Judgment thereon. Now there never was a Prince more Expensive, than his Most Christian Majesty, Witness the Magnificence of his Furniture, his sumptuous Pallaces and Gardens; the Lead only, whereof which is hid under Ground, (as is said) cost more than would pay Fifty Thousand Men a Year entire. The Enchanting Festivals, of which we have seen so many lavish Descriptions; The prodigious number of his Domestick Officers; And the immense Riches which he has heap'd on those that have serv'd him, on themselves their Relations and Friends; The so much boasted Works of *Maintanon* and *Languedoc*, Mountains Levell'd, and Cannals Cut, for the Communication of Seas. And Lastly, The Vast Number of Pensions, which he gives to all Sorts of People, both within, and without his Kingdom, which amounts to more than Four Millions of Crowns. You'll find nothing like this in the House of *Austria*, not but they have great and Magnificent Hearts; but the continued Expenses, of a Defensive and Indispensible War, has left them no Funds for such Magnificence.

VII. I have yet to speak of the Victories and Conquests, which Article alone, would require a Volume. I shall therefore not mention their Victories, the Enemies have themselves sufficiently taunted them,

them, both in Verse and Prose; but I think my self Oblig'd to give you a short List of their Conquests. In this I shall not mention any of those Cities, or Provinces, which have been first Conquer'd, and afterwards Lost or Restor'd. Nor that those being Acquir'd by One Treaty, have been Restor'd by another. You shall not see in this, *Lorraine* Groaning Twenty Seven Years under the Yoak of *France*; nor the half of our Provinces subjected in less than a Month; nor *Sicily* submitted to his Most Christian Majesty by the Revolted People. No, in this List, you shall only see those Conquests, whereof his *Most Christian King* remain'd in full Possession, after the Treaty of *Ryswick*, whether such as have been Expressly granted him, or such as were not then thought proper to mention, or those that he has kept contrary to the Treaty.

From the Empire and the House of *Austria*, by the Treaty of *Muster*.

Metz, *Toul*, *Verdun*, *Moyenic*, and the Countries depending thereon; the *Langravedom* of the Upper and Lower *Alsace*, and the Provincial Prefecture of Ten Imperial Cities, situate in *Alsace*.

Since and against the Treaty of *Munster*.

The Sovereignty over the Ten Imperial Cities, over all the Princes, Counts, and Free States of *Alsace*, and of all the *Fiefs* of the three Bishopricks.

From the House of *Bouillon-Auvergne* by a Contract of Change in the Year 1651.

The Sovereignty of *Sedan*, with the Town, the *Demesnes*, and all the Dependancies, provided that there should be an Equivalent, which was never made Good.

From the House of *Austria* by the *Pyrenean* Treaty.

Arras with the Government and *Bayliwick*; *Hesdin* and its *Bayliwick*; *Bethune* and its Government; *Lilliers* and its *Bayliwick*; *Lens* and its *Bayliwick*; The County of *St. Poll*, *Terouane* and the *Bayliwick* thereof; *Pas* and its *Bayliwick*; in short, all the Country of *Artois*, except *Aire* and *St. Omer*.

Gravelin, *Fort Philip* and its *Chatelanie*, or *Castleward*, *Landrecy*, *Quesnoy*, and their *Bayliwicks*, *Provostships* and *Castlewards*.

Thienville, *Montmedy*, *Damvilliers*, with the *Appurtenan*

tenantes, Dependances, and Countries Annex'd; The Provostship, of *Ivoy, Chavancy*, the Castle and its Provostship, the Town and Provostships of *Marville*.

Marienburg, Philippeville, and Avesne, between the *Sambre* and the *Meuse*.

All the County and * *Viguiery* of *Roussillon*, on this side the *Pyrennees*: The County and *Viguiery* of *Confluence*, with the Country, Cities, Forts, Castles, Towns and Villages that Compose it; with Thirty three Villages of the Country of *Cerdagnia*, situate on this side the *Pyrennees*.

From the House of *Austria* against the *Pyrenean Treaty*,

The County of *Charleroy*, with all the Appurtenances and Dependances.

From the House of *Austria*, by the Treaty of *London* the last of *October 1662*.

The Town and Citadel of *Dunkirk*, in the Condition they were then in.

From *Lorain*, by the Treaty of the last of *Feb. 1661*.

The County of *Clairemont*, with its *Demesnes*: The Towns, Provostships and Lands of *Stenai, Jamets*, and all their Territories; the Fort of *Sirk*, with Thirty Villages; the Forts and Posts of *Cosignan, Sarbourg* and *Phalsbourg*. That part of the Provostship of *Marville*, that belong'd to *Lorain*. The Sovereignty of the Abby of *Gorze*; the Sovereignty of the Fort of *Maletom*; all that could belong to the Duke of *Lorain*, in *Marcheville, Harville, Mabenville, and Mezeray*, The Sovereignty of *Sishef, Franshof, and Moutelen* on the *Saar*.

From the House of *Austria*, by the Treaty of *Aix la Chapelle*.

Doway, Fort Scarpe, Tournay, Lisle, Armentiers, Bergues St. Wenox and *Furnes*, with all the Extent of their Bayliwicks, Castlewards, Territories, Governments, Provostships, Appurtenances and Dependances.

From the House of *Austria*, by the Treaty of *Nimeguen* with *Spain*.

All the County of *Burgundy*, Comprehending the Towns

* A sort of Magistracy in some of the Towns in France and Spain.

Towns of *Dole*, *Besançon*, *Grey*, *Salines*, and *Vesoul*, with the Forts of *St. Ann*, and *Joux*, and more than One Hundred Twenty Market Towns and Villages.

The Towns and Forts of *Valeciennes*, *Bouchain*, *Conde*, *Cambray*, *St. Omer*, *Ipres*, *Warwick*, *Warneton*, *Peringue*, *Balleul*, *Cassel*, *Buway*, *Charlemont*, and *Maubeuge*, their Bayliwicks, Castlewards, Governments, Provostships, Territories, Demesns, Lordships and Countries annex'd.

From the House of *Austria*, by the Treaty of *Reswick* with *Spain*.

Seventeen Villages or Fiefs of the Provinces of *Hainault*, and Four Hundred Fifty others, of the Dependence of *Maubeuge* and *Quesnoy*.

From the Empire, by the Treaty of *Reswick*, with the Emperor and Empire.

The Town of *Strasburg*, and all that depend thereon, on the Left of the *Rhine*, and Fort *Lewis*, with the Isle of *Rhine*, in which it is situated

From *Lorian* by the same Treaty.

The Citadel of *Sar Lewis*, with a Territory of half a League in Circuit.

The City and Prefecture of *Longwi*, and Passage for the Troops of his Most Christian Majesty, thro' the Estates of his Royal Highness.

From *Lorian*, since, and contrary to the Treaty of *Reswick*.

The Forts of *Bitch* and *Homburg*, *Sarguemines*, *Saralbe* and *Boulai*, the Town of *St. Hipolito*, the promis'd Equivalent for the Prefecture of *Longwi*, and the Sovereignty of *Arches*.

All this Comprehends, Eight Sovereign Provinces, two Archbishopricks, Nine Bishopricks, Thirty of the Strongest Places in the World; Seventy Cities, some, of which are reckon'd amongst the finest in *Europe*, and more than Three Thousand Market Towns or Villages: Is there any thing more wanting to make a Crown compleat, whose Friendship all the other Estates find themselves Interested to manage with Prudence.

Such is the King, of whose being too much weaken'd you are so apprehensive ; such is the House, to which you will give *Spain* and the *Indies*, to make a Ballance of Power, between it and the House of *Austria*.

I know what you are ready to answer me, the Letters which you honour'd me with after the Death of the Duke of *Burgundy*, have prepossess'd me sufficiently ; I know you'll say, that the Death of the Emperor *Joseph*, has very much chang'd the Face of Affairs in *Europe*, and principally in relation to the Point of Ballance. That all those vast Dominions of the House of *Austria*, finding themselves Re-united with the Imperial Crown, in the Person of one Prince, will Form in him, a much greater Power than when they were divided into two Monarchies. And that this Change happening in the Things themselves, the same ought necessarily to follow in the Measures. You'll add, that there's no fear, that the Interest of *France* and *Spain* will be United ; that the most Christian King is now in the 74th Year of his Age, and probably can't live long. That in all appearance the Crown will descend to a Minor ; and the then Governing Regents (not having the same Authority, nor Forces, nor the same Revenues which the present King has) will have no further Views than to preserve the Kingdom entire, and won't think it advisable to trouble the Repose of *Europe*. That the Duke of *Anjou* on his side, will pursue a Plan of Politicks different from what has been already follow'd ; and will find himself necessitated to keep in with the Maritime Powers. That he'll Court their Friendship ; and to obtain it, will restore them the freedom of Trade, highly satisfy'd to enjoy peaceably the Crown which he has obtain'd. Would to God that this Appearance was real. But tho' the earnest Desire of a Thing, goes a great way to the believing of it ; yet I protest to you, I have no Notion of this. I comprehend clearly that the Monarchy of *Spain*, join'd to that of *Germany*, will form a new Monarchy, equal in Power to the two former, But I do not conceive that by this Union, the New Monarchy will become more Powerful than the two were before. There are even a good many Reasons to fear the contrary. For the Cause why the Kings of *Spain* were not Powerful in Proportion to their Dominions, is, that the greatest part

of them, were distant from the Places of their Residence, and oblig'd to be govern'd by Vice-Roys: An Inconvenience which will be doubled in the Person of a single Monarch. I am willing to believe, that after the Example of *Charles the 5th*, he might divide his Residence, according to the Necessity, between *Germany* and *Spain*: But whatever his Prudence might dictate to him, to Act in that Regard, his Dominions wont be more Join'd, nor the People more Rich; neither will Commerce be more Flourishing, nor the Fleets increase in Number: The Revenues wont be larger, nor the Exchequer less Engag'd. How then will it be more Powerful! All that the Minister, Author of the Reflections, says on the Subject of the Imperial Dignity, concludes nothing. It's notorious, that it brings no Revenue to the Possessor; and that it is not true, that the Emperor Moves, Agitates and Determines, at his Pleasure the Estates of the Empire, even without Consulting them. The History of the two last Electors of *Cologne*, and that of the Elector of *Bavaria*, Son in Law to the Emperor *Leopold*, and Brother in Law to the Emperor *Joseph*, clearly prove the contrary. But this is not the Matter. The Question is, to know whether this Authority, such as it is, join'd as it has been for these 200 Years past, in the Hereditary Power of the House of *Austria*, in the two Branches of that Family, will make so great and excessive a Difference in the Balance of *Europe*, that to make the Ballance just, they must be oblig'd to take away a part from thence, and put it on the side of *France*. On which, without further Arguing, I refer my self to Truths known to all *Europe*, and I think Demonstrated in the seven preceding Articles. Is it not a Jest, to call that the lesser Power, which Oppresses the other? Takes Towns and Provinces, and actually detains them; and has carry'd on a War these ten Years past, too Powerfully, not only against the other Power mention'd, but against the Half of *Europe*, United for the Common Defence of their Liberty?

If after this you would have farther Proofs, I'll give you the Opinion of those Potentates that made the Treaty in 1689. They were so far from thinking that the Union of the two Monarchies of the House of *Austria*, in the single Person of the Emperor of *Germany*, would make
him

him too Powerful, that by the * Secret Article of the same Treaty, they oblig'd themselves to be Guarantees, for the Rights of the Emperor *Leopold*, to all the Monarchy of *Spain*; not only for himself, but also for his Successors. And besides this, they promised their best Endeavours to procure King *Joseph's* Election to the Imperial Dignity of King of the *Romans*. This Treaty remain'd in Force during the whole War: And you have soon after the Treaty of Partition, in which other Measures were taken. That the Parliament of *Great Britain*, declar'd expressly for the Union of the Monarchy, in the Person of the Emperor *Leopold*, who preserv'd his Rights thereunto intire till 1763. when he made a Renunciation thereof, in Favour of the Archduke *Charles*, his second Son.

I am yet to answer you on the Consequences that you draw from the Childhood of the *Dauphin*, and of the Appearance there is of a Reign of Minority in *France*; as if thereby our Security was Re-established, and our Alarms over. I think that by this Minority, we should rather apprehend these two Crowns Uniting in one and the same Interest; than on the contrary expect to see *France* become indifferent for the Duke of *Anjou*, and the Duke of *Anjou* heartily Zealous for the Maritime Powers. I know, Sir, that all things are subject to Change; and more surprising Turns have been seen, than that of the Separation of the Duke of *Anjou's* Interest, and the Crown of *France*. But for my part I depend upon no such Change. I judge of Things to come by the present Time; and of the present Time by the Appearances: My Politicks reach no farther.

There are three Reasons principally, which ought to Engage *France*, to endeavour always to preserve an Authority in *Spain*: The First is, That the Riches of the *Indies* will thereby Circulate through the Kingdom, and exclude all other Nations. The Second is, The Disposal of all her Ports at Pleasure. And the Third is, The Dominion on the *Mediterranean*, and the facilitating thereby all his Designs, whether they be on *Italy*, *Africk*, or on the *Levant* Trade; or by Managing at the Court of *Rome*, whole general Influences are sufficiently Notorious.

Three other Reasons no less Powerful, ought to hinder the Duke of *Anjou* and his Successors, from separating their Interest from those of *France*. The One is, That that Crown finding it self interested to sustain him, he will always be secure of its succour. Another is, that by the Means thereof, he can easily Establish such an Arbitrary Government in *Spain*, as is already in *France*. And the Third is, That there is no Power in *Europe* which lies so Contiguous, either to do him much Good or Ill at so short a warning. *Charles* the 4th, Duke of *Lorrain*, did not love *France*, neither had he any Reason so to do; and yet he rarely fail'd of doing whatever that Crown would have him. And once he carry'd his Complaisance so far, as to make a Donation of all his Estates to the most Christian King. It's a general Rule, that any Prince who by the Situation and Weakness of his Dominions, is not able to resist another Prince his Neighbour, he ought to attach himself to that Prince's Interests, and engage his Favour by complying, and sacrificing every Thing to his Will. Fear, Weakness, Interest, Inclination, and Kindred, all concur to the same End, and equally engage the Duke of *Anjou*, to attach himself strictly to *France*, and to do whatever that Crown would have him. King *William* was a Prince of great Discernment in the Affairs of *Europe*, his Testimony will be here

In his Speech to the Parliament the 11th of January, 1702. N. S.
the last of his Life.

of great Weight. * By the French King's placing his Grandson on the Throne of *Spain*, he is in a condition to Oppress the rest of *Europe*, unless speedy and effectual Measures be taken. Under this pretence, he is become the real Master of the whole Spanish Monarchy; he has made it entirely depending on *France*, and disposes of it as of his own Dominions: And by that means has surrounded his Neighbours in such a Manner, that the Name of Peace may be said to continue, yet they are put to the Expence and Inconveniencies of War. This must affect *England* in the nearest and most sensible Manner, in respect to our Trade, which will soon become precarious, in all the valuable Branches of it; in respect to our Peace and Safety at Home, which we cannot hope shall long continue; and in respect to that Part which *England* ought to take, in the Preservation of the Liberty of *Europe*.

Experience has prov'd the Truth of this Wise Discourse, and it will be made more apparent in the Time to come, if Care be not taken whilst it may, to wrest out of the Hands of *France*, that part of the Monarchy of *Spain*, which the Duke of *Anjou* Rules at present. I am satisfy'd to believe, that during a Minority, the Maxims of that Crown will be less active, and will be less sensible to the rest of *Europe*. I'll believe that the Good Will and Pleasure of the Regents, let them be who they will, will not be so forcible as that of *Lewis* the Great, to Open the Purses of the Kingdom. In short I'll believe that the Minority may procure us some Peace; but then that Peace will last but ten or twelve Years at most: After which a new King will appear upon the Throne, equally Ambitious and Undertaking as his Predecessors. A long Peace will have refill'd his Exchequer. Trade will have brought Plenty into his Dominions, and his People will have forgotten their past Miseries. Old Maxims will be then new vamp'd up. The Seas will be cover'd with Fleets, and the Fields with Armies. And according to all appearance, They then will crush Us, either all together, or one after another. Heaven of its Divine Goodness, ward this Presage from our Heads, and restore in us the Spirit of Union, Strength and Courage, which is now more necessary than Ever.

Here is a Letter of an extraordinary Bulk. At first I did not design it so long, but the Matter is of too great Extent and Importance for a few Words. Of the fifteen Articles of the Queen's Speech, I have only sent you my Thoughts on Four; the others may be the Subject of a second Letter, if God gives me Life, and my Business Leisure enough to write. In the mean time we shall see what turns there will be in Affairs. They have alter'd much since I began to write to you. If I remember well it was on the first of *July*, and now it's the tenth of *August*. For since I am uncertain when this may come to your Hands, I would willingly have you know precisely when it was written.

I am perfectly, SIR,

Your s, &c;

L B T

LETTER B.

LAW XII.

THAT the most Christian Queen of *France*, *Anne*, her Children and Issue by her Marriage with the most Christian King *Lewis XII* shall not be capable of succeeding in the Kingdoms of *Spain*, or their Dependencies, unless in such Cases as this Law assigns. Publish'd at *Madrid*, *June 3. 1619.*

In the Articles of Marriage between the most Serene Prince, our very dear and well-beloved Son, with the most Serene Princess *Elizabeth*, and that between the most Serene Infanta *Anne* and *Lewis XIII.* the most Christian King of *France*, which were concluded in this Town of *Madrid*, on the 22d of *August*, 1612, there are two Articles of the following purport.

That whereas, their Catholick and most Christian Majesties, have, and do agree to those Matches, to the end the double Bond of them may perpetuate, and the better secure the publick Peace of *Christendome*; and such love and Brotherly Affection between their Majesties, as is to be wish'd for: And in Consideration of the said just Motives, which make out and demonstrate the Conveniency of these Matches, through which, with the divine Grace and Assistance, happy Consequences may be expected, to the great Benefit and Advancement, of the Christian Faith and Religion, and to the publick Benefit of the Kingdoms, Subjects and Vassals of both Crowns; and for as much as it concerns the publick Good, and the Preservation of the said Crowns, that being so great, they should not be Unired, and for preventing the Occasions that may happen, of Uniting them; as also on Account of the Equality and Conveniency aim'd at, and for other just Reasons; it is agreed by mutual Contract, which their Majesties will have to bear the Force and Vigor of a Law, Establish'd in behalf of their Kingdoms, and of the publick Weal of them, that the most Serene Infanta *Anne*, and the Children she may have, Males and Females, and the Issue of either of them, as well the First-born

born as the Second, Third, Fourth, and so forward in any degree whatsoever for all Time to come, may not succeed, or be capable of succeeding in the Kingdoms, States, and Dominions of his Catholick Majesty, nor in any of the other Kingdoms, States and Dominions, Provinces, and adjacent Islands, Fiefs, Garrison Places, or Frontiers, which his Catholick Majesty at present holds and possesses, and which do or may belong to him, as well within *Spain* as without it; or which his Catholick Majesty and his Successors, may hereafter have and possess, and may appertain to them, or in all that is comprehended, included, or depending on them, nor in all that shall at any Time be acquir'd, or added to the said Kingdoms, States and Dominions, or shall be recover'd or devolve on any Title, Right, or Cause whatsoever, notwithstanding it should happen during the Life of the said *Infanta Anne*, or after her Death, during the Life of any of her Descendants, whether first, or second Born, or more remote; and tho' the Case or Cases should happen, wherein, according to the Rights, Laws, and Customs of the said Kingdoms, States, and Dominions, and to the Rules and Dispositions, by which it is usual to succeed, or pretend to succeed in them, the Succession should belong to them; for the said most Serene *Infanta*, and all her Children, and their Descendants, whether Males or Females, are from this Time declar'd to be Excluded from the said Succession, and from all Hopes of succeeding in these said Kingdoms, States, and Dominions, notwithstanding they shall and may say and pretend, that the Motives of the common Cause, or any other, on which this Exclusion might be grounded, do not concurr, or cannot be consider'd in their Persons. And that in case, which God forbid and ayerr, that the Line of his Catholick Majesty should fail, and that of the most Serene Princess and *Infanta*, and of the other Children he has, and may have, and of all the Lawful Successors any way whatsoever, yet as has been said, they shall on no Account, nor at any Time, succeed, or pretend to succeed, notwithstanding the said Laws, Customs, Ordinances, and Dispositions, by virtue of which, others have succeeded and do succeed in all the said Kingdoms, States, and Dominions, and notwithstanding any Laws and Customs of the Crown of

France

France, which are against this Exclusion, to the Prejudice of its Successors, as well for the present, as for those Times and Cases, to which the said Succession may relate: All which, and every one of them, their Majesty's are to derogate and abrogate, as far as they are opposite to, or obstruct the Contents of this Article, and the Execution of it, and by approving of this Capitulation, they do derogate, and look upon them as derogated. And that the said *Infanta* and her Issue, are, and be, understood to remain excluded, so as they may in no Case, or Time succeed in the *States*, and *Low-Countries* of *Flanders*, and the County of *Burgundy* and *Charolois*, with all the Appurtenances and Dependencies thereof, which were by Gift of his Catholick Majesty, assign'd to the most Serene *Infanta Elizabeth*, and are to revert to his Catholick Majesty and his Successors. But it is also expressly declar'd, that in case the said most Serene *Infanta* should happen to be left a Widow, of this Marriage, without any Issue, which God forbid and avert, that then she be free from the said Exclusion, and capable of succeeding in all that may belong to her, and that upon two Conditions; the first, if being left a Widow of this Marriage, and without Children, she should return into *Spain*; the other, if in Consideration of the publick Good, and upon just Motives, she should Marry again, with the Consent of the Catholick King her Father, and the Prince of *Spain*, her Brother, in which Cases, she shall remain capable and Entitled to succeed and inherit.

That the most Serene *Infanta Anne*, as soon as she is Twelve Years of Age, and before the Celebrating and Contracting of the Marriage, shall sign an Instrument, obliging herself and her Successors, to observe and fulfil what is said above, and to the Exclusion of herself and her Issue, approving the whole, and in the manner as it is contain'd in this Capitulation; with the necessary Clauses; and upon Oath, inserting this Capitulation in the Instrument of Obligation and Approbation, which her Highness shall sign; She shall also pass such another Deed jointly with the most Christian King, as soon as Married to his Majesty, which shall be Register'd and Enroll'd in the Parliament of *Paris*, in due Form and with the usual Validity; and his most Christian Majesty

ity shall approve of the said Renunciation and Ratification, in the usual Form and Manner. And whether the said Renunciations, Ratifications, and Approbations be made or not made, they are from this Time, by Virtue of this Capitulation, and of the Marriage that shall ensue pursuant to it, look'd upon as actually made and granted.

And in Execution and Accomplishment of the two said Articles above inserted, the said most Serene *Infanta Anna*, Queen of *France*, pass'd a Deed in Confirmation and Ratification of all that is in them contain'd, that they might be inviolably observ'd and fulfill'd, as more fully appears by the said Deed, which was pass'd and signed in the City of *Burgos*, Q^{uo}ber 16. 1613.

And for as much as the Kingdom assembled in the *Cortes*, in those which were held in the Year 1616, being desirous that what is contain'd in the said Articles, may be observ'd and fulfill'd, in the manner as in them contain'd, has intreated us, to order and cause a Law to be promulgated, to the end that what has been said may have its full Effect. Our Council having taken it into Consideration, it was resolv'd, that we ought to command, and we do command, that what is contain'd in the said Articles and Deed, be observ'd, fulfill'd, and executed perpetually, pursuant to, and in the same manner, as it is contain'd in the said Articles above inserted. *

* *Nueva Recopilacion* lib. 5. Tit. 7. leg. 12.

The Reference to the Collection of the Laws.

LETTER C.

Letters Patents granted by the most Christian King to the Duke of Anjou, to secure his Right of Succession to the Crown of France, for himself and his Successors.

LEWIS by the Grace of God, King of *France* and *Navarre*, to all present and to come, **HEALTH.** The Blessings it has pleased God to heap on us, during the Course

Course of our Reign, are to us as Motives to apply our-
 selves, not only for the Present, but for the Time to
 come, to procure the Happiness and Tranquility of the
 People, Divine Providence has appointed us to Govern.
His unsearchable Judgments do only make us sensible, that
we are not to place our Confidence, either in our Strength,
or in the Extent of our Dominions, or in a numerous Posterity;
and that those Advantages, which we receive solely from His
Bounty, have no other Solidity, than what it pleases him to
give them. Nevertheless, since it is the Will of God, that
 the Kings he makes Choice of to Rule his People, should
 at a distance foresee such Accidents as are capable of
 occasioning Disorders and the most bloody Wars, and
 that, in Order to prevent them, they should make use
 of those Lights his Divine Wisdom bestows on them, *We*
fulfil his Designs, whilst in the Height of the universal Re-
 joycing throughout our Kingdoms, we reflect, *as a thing*
possible, on a dismal Consequence, which we beseech God for
ever to avert. At the same Time, when we accept of
 the last Will of the late King of Spain, when our dearest
 and most entirely beloved Son the DAUPHIN, renoun-
 ces his lawful Rights to that Crown, in Favour of his
 second Son, the DUKE of ANJOU, our Dearest and
 most entirely beloved Grandson, *appointed by the late King*
of Spain his universal Heir; when that Prince, now known
 by the Name of PHILIP V. King of Spain, is ready
 to enter into his Kingdom, and to answer the eager
 Vows of his new Subjects; this mighty Event does not
 hinder us from looking beyond the present Time; and
 at a Time when our Succession seems to be best secur'd,
 we think it is equally *the Duty of a King and of a Father,*
 to make known our Will for the future, pursuant to the
 Notions inspir'd by those two Qualifications. *Being there-*
fore fully perswaded, that the King of Spain, our Grandson,
will ever retain the same Affection and the same Sentiments,
he has given us so many Instances of, towards us, towards our
House, and towards the Kingdom where he was Born; and
that his Example uniting his new Subjects with ours, will
create perpetual Amity, and the most perfect Correspondence
between them; We should also believe, *we did him a*
wrong we are not capable of, should we from henceforward
 look

look upon a Prince, we give up at the unanimous Request of the *Spanish Nation*, as a *Stranger*.

For these Reasons and other weighty Considerations us thereunto moving, &c. We have by these Presents, Sign'd with our own Hand, said, declar'd and ordain'd, do say, declare, and ordain, and it is our Will and Pleasure, that our Dearest and most entirely Beloved Grandson, the King of *Spain*, *shall always retain his Birth-Right, in the same manner, as if he had his actual Residence in our Kingdom.* Thus our Dearest, and most entirely Beloved Son the DAUPHIN, being the true and lawful Heir and Successor of our Crown and Dominions; and after him, our Dearest and most entirely beloved Grandson, the DUKE of BURGUNDY, *if it should happen, which God forbid, that our said Grandson the Duke of Burgundy should happen to dye without Issue Male, or that those he may have in good and lawful Wedlock, should dye before him, or that the said Male Children should leave no Issue Male born in lawful Wedlock; in that Case, our said Grandson, the King of Spain, taking the Advantage of his Birth-Right, shall be the true and lawful Successor of our Crown and Dominions, notwithstanding his being then absent, and residing without our Kingdom, and immediately after his Decease, his Heirs Males, got in lawful Wedlock, shall come into the said Succession, notwithstanding their being born and residing without our said Kingdom.* It being our Will, that our said Grandson, the King of *Spain*, nor his Issue Male, shall not for the aforesaid Reasons, be look'd upon, or reputed the less entitled, or capable to receive the said Succession, or any other that may fall to them in our said Kingdom.

On the contrary, it is our meaning, that all Rights, and in general all other Things, which might at present and for the time to come belong, or appertain to them, *be and remain perfectly and entirely preserv'd, as if they had continually dwelt and resided within our Kingdom till their Death, and that their Heirs had been Natives and Inhabitants of it, and to that effect, as far as is or may be requisite, we look upon them as capable and dispensed with, and do capacitate and dispense with them by these Presents.* SUCH IS OUR WILL, &c. Given at Versailles, in the Month of December, of the Year of Grace, 1700.

and

and of our Reign 38. Sign'd *Lewis*. And Counterfig'd,
by his Majesty's Command, **PHELYPEAUX, &c.**

Register'd in Parliament, February 1. 1701.

Sign'd, **DONGOIS:**

LETTER E.

An Act of Renunciation, made the Second of June, 1660. at Fuenterrabia, by the Infanta Mary Teresa, as well in regard to what might belong to her, of the Inheritance of the Queen her Mother, as of that of the Catholick King her Father, in Relation to particular and Domestick Goods.

THE Lady *Maria Theresa*, Infanta of both the *Spains*, and by the Grace of God future Queen of *France*, the eldest Daughter of the most High, most Excellent, and most Potent Prince, *Philip* the Fourth, Catholick King of the *Spains*; and of the most High, most Excellent, and most Puissant Princess, *Isabella*, Catholick Queen, who is in Glory: Be it known and manifest by this Instrument, and Act of Renunciation, and the rest contained therein, to all those to whose Knowledge it may come, be it in what manner it will; That by the Second and Fourth Articles of the Treaty of my Marriage, as promis'd to the most High, most Excellent, and most Potent Prince, *Lewis XIV.* the most Christian King of *France*, which was concluded in the *Iste of Pheasants*, in the River of *Bidassoa*, the Boundary of the Province of *Guipuscoa*, and the Confines of these Kingdoms with that of *France*, on the 7th of Nov. in the Year 1659. It hath been resolv'd and concluded on, That the King my Lord, (for and in Consideration of this Marriage, and to the end that I may have my Portion, and my own Effects with me) hath promis'd to give me Five Hundred Thousand Crowns in Gold, which should be paid and delivered at the place, and at such

times

N. B. It has not been thought fit to look back in this Table, as far as the Emperor Charles V. because it would be of no use. This, in few Words, is all that could have been said of it. Charles had two Daughters, who were married, and left Children. Mary marry'd Maximilian II. Jane was Wife to John, Prince of Portugal. Mary had nine Sons, who all dy'd without Issue; and six Daughters, whereof only two had Children. Anne, the Eldest, was marry'd to Philip II, King of Spain, and Mother to Philip III. Isabel or Elizabeth, the Youngest, was married to Charles IX, King of France, and had no Children. As for the Princess Jane, who married the Prince of Portugal, she had but one Child, which was the unfortunate K. Sebastian, kill'd at the Battle of the three Kings in *Africk*, and never marry'd.

CATHERINE,
the Infanta, married in 1583, to Charles Emanuel I. Duke of Savoy.

Victor Amadeus,
Duke of Savoy.

Charles Emanuel II,
Duke of Savoy.

Victor Amadeus,
the present D. of Savoy.

Emanuel Philibert,
Pr. of Carignan dy'd in 1709.

N.... N.... N....
Prince of Carignan.

Thomas Francis,
Prince of Carignan, call'd Pr. Thomas.

Eugene Maurice,
Count of Soissons.

Lewis Thomas, Count of Soissons.
Franc. Eugene, Prince of Savoy, Generaliss. of the Empire.
N.... Prince of Savoy.

Louisa Christina, married to Ferdinand, Prince of Baden.

Lewis, Pr. of Baden, Generalissimo of the Empire.

Mary, marry'd in 1627 to Char. Gonzaga, D. of Ratheois.

Charles Gonzaga III,
D. of Mantua.

Margaret, marry'd in 1608 to Francis de Gonzaga, Duke of Mantua.

Eleanor, marry'd in 1651 to the Emperor Ferdinand III.

Eleanor Mary, marry'd in 1678 to Charles V. D. of Lorraine.

Elizabeth, marry'd in 1688 to Alphonso d'Este III. Duke of Modena.

Francis I.
Duke of Modena

Alphonso IV.
Duke of Modena

Francis II.
present Duke of Modena.

LEWIS XIV.
present King of France.

Lewis,
Dauphin, died April 24. 1711.

Mary Adelaide marry'd to the Duke of Burgundy, † Febr. 12. 1712. she had renounc'd.

N.... Duke of Anjou now Dauphin.

Mary Louisa, marry'd in 1701 to the D. of Anjou, who holds the Crown of Spain, has Renounc'd.

N.... pretended Prin. of Asturias born August 29. 1707.

Philip Joseph, Prince of Piemont.

N.... pretended Infant born Jun. 7. 1712.

N.... Duke of Aouste.

N.... Princess of Savoy.

Emanuel, Prince of Savoy.

N.... Prince of Savoy.

N....

Charles Joseph, Prince of Baden.

Ferd. Charles, last D. of Mantua, dy'd without Issue.

Leopold Joseph, present Duke of Lorraine.

Joseph John, Elect. of Treves,

N... N...

N.... N.... N.... N....

Lewis, Duke of Burgundy, and after Dauphin, dy'd Feb. 28. 1712.

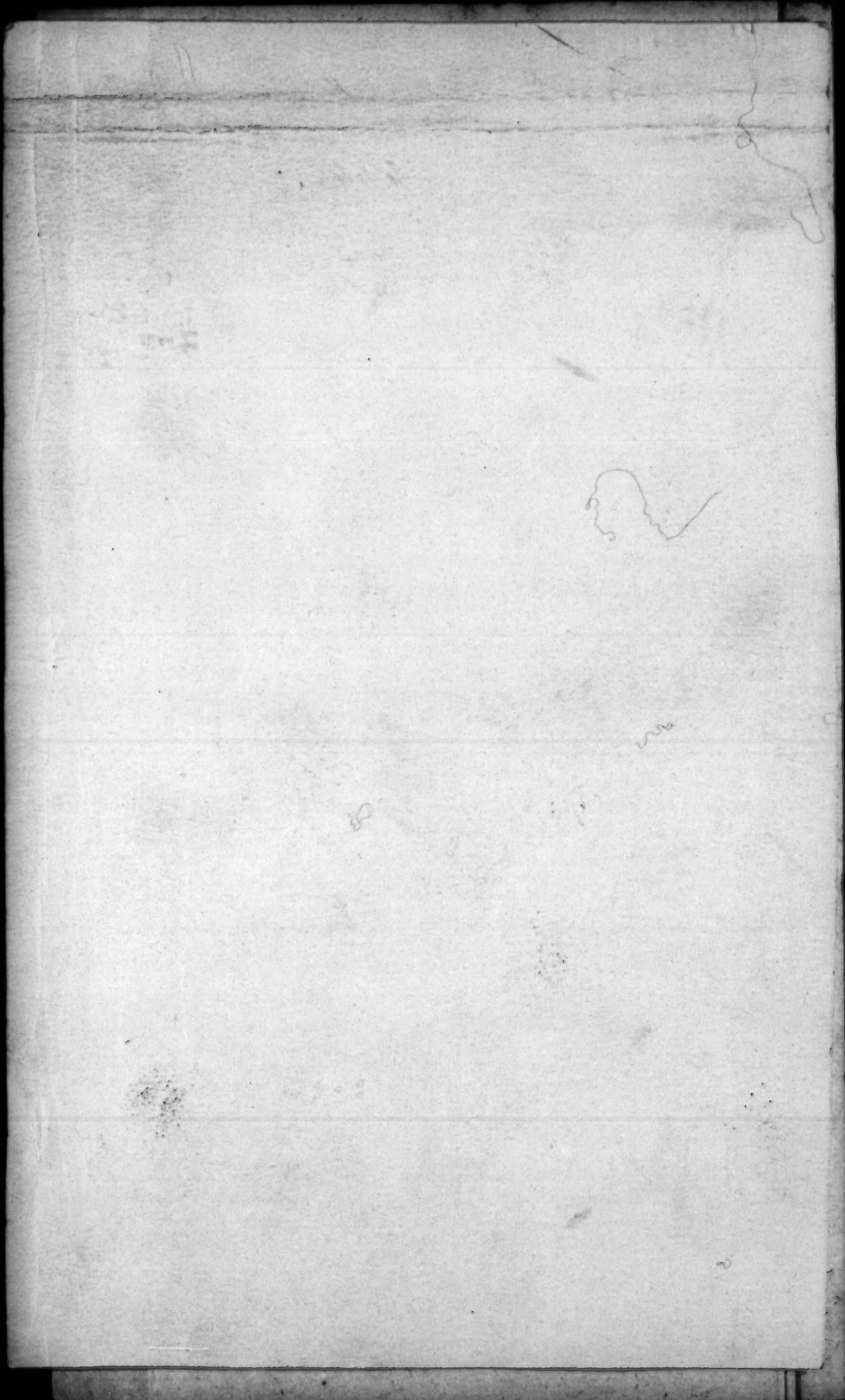
N.... Duke of Anjou, now Dauphin; born Feb. 15. 1710.

Philip, Duke of Anjou, now possess'd of Spain, and the West Indies, has two Children.

N.... pretended Prin. of Asturias, born Aug. 25. 1707.

N.... Duke of Berry.

N.... pretended Infante; born June 7. 1712.



times as specify'd in the said Article, to the most Christian King, or the Person authoriz'd by him; and that I ought to be content with that, and hold my self satisfy'd, for all or whatever Rights to, and Pretensions that do or may for the present or future appertain to me, upon the Goods and Inheritance of the Most Serene Queen *Isabella* my Mother, and the future Succession to the King my Lord (whom God preserve) and every thing that might belong and appertain to me, as a Daughter and Heir of their Catholick Majesty's, and for their Right and Sovereignty, and any other Title whatsoever, thought or unthought of, known or unknown, as well for the paternal as maternal, direct or collateral Line, mediately and immediately, and which before the Celebration of the Marriage, in direct Words, I should yield; and renounce all my Rights and Pretensions to the King my Lord, and those authoriz'd by him, in such manner as his Majesty shall think fit and most agreeable, according as it is more particularly stipulated and declared in the Second and Fourth Articles, which I have read and heard read several times, before I gave my consent to the Contents of this Instrument, which I am willing should be inserted, and put in Letter for Letter, and Word for Word; the Tenor of which here follows:

II. That his Catholick Majesty does promise and oblige himself to give, and that he will give to the Most Serene Infanta *Maria Theresa*, for her Marriage Portion to the Most Christian King of *France*, and will pay to his Most Christian Majesty, or to those authoriz'd or commission'd by him, Five Hundred Thousand Crowns in Gold, call'd *Sun* Crowns, or their just value, in the City of *Paris*; and this Sum shall be paid in the following manner, *viz.* one third at the time that the Marriage is consummated, another third part at the end of the Year after the said Consummation, and the last third six Months after: Insomuch, that the whole payment of the Five Hundred Thousand *Sun* Crowns of Gold, shall be performed in 18 Months time, at the Terms and in such Proportions as are here specify'd.

IV. The Most Serene Infanta *Maria Theresa*, upon condition that effectual Payment be made to his Most Christian

Christian Majesty, or to the Person empower'd to receive it, according to his Order, of the said Sum of Five Hundred Thousand Crowns in Gold, or the just value of them at the Terms before-mention'd, will be content, and contents her self with the said Portion, without any Reservation of Action of Right to demand, or pretence that any Goods or Rights appertain or ought to appertain to her, upon the Inheritances of their Catholick Majesty's her Parents; whether in reference to their Persons, or any other manner whatsoever, or some other Title known or not known; because she ought to be *excluded of all, be they of what condition, nature or quality they can be*: And before the Betrothings are compleated, she shall make a formal Renunciation of them, with all the Assurances, Stabilities and Solemnities that are requisite and necessary; the which she shall do before she is marry'd by expresse Words; and afterwards she shall approve and ratify the same, in Conjunction with the Most Christian King, as soon as her Marriage shall be celebrated, with the same Assurances and Solemnities with which the first Renunciation was done, and such as may seem most proper and needful; to which his Most Christian Majesty and her Highness ought, and are oblig'd to be bound from henceforwards: And that in case they do not perform the said Renunciation and Ratification, *they shall be taken for Facts, and Things done from that time forward, only by virtue of this Treaty*; the which ought to be done in the most efficacious and proper Form that can be, in order to the validity and firmness of them, with all the Clauses, Derogations and Abrogations of all the Laws, Usages, Customs, Arrests and Constitutions whatsoever, that are contrary thereto, or may in part or in the whole obstruct the same; from which for this end *their Catholick and Most Christian Majesty's ought to derogate*; and 'tis understood they do from this time derogate from the same, by their approving of the present Treaty.

And as by the Grace of God I find my self in the Age of Maturity, being above 20 Years old; and that if it please God, our Marriage is shortly to be compleated by expresse Words; and that I am satisfy'd, appriz'd and inform'd to my entire Satisfaction, of the Substance and

Effect

Effect of the Articles, and do, and have acknowledged; that I could not, out of the future Succession of the King, my Lord, and the Inheritance of the Most Serene Queen my Mother, reckon that the said Sum of Five Hundred Thousand Crowns belong'd or in rigour appertain'd to me, as for my Lawful Heritage; and that if the same had belong'd to me, it's a very competent Portion, and the greatest that had hitherto been given to any Infanta of *Spain*, and which the King my Lord has been inclined to make so large, in order to gratify me, and in Consideration and Contemplation of the Most Christian King's Person, to the end that by the means of this Marriage, the Effects mention'd in the said Treaty of Marriage might be obtained, which are of so much Importance for the publick Benefit of *Christendom*, and the Content and Satisfaction of these Kingdoms: Wherefore I do of my certain Knowledge, and free Will and Pleasure, approve and require, that what has been resolved on and concluded by the said two Articles, be observed and accomplish'd; and that it be understood, that this Marriage ought to be concluded and perfected upon the Conditions therein contain'd and declar'd; and that without such Conditions, it would not have been brought to the pass it's now in; and that from henceforward, I hold my self contented; and that I am entirely and absolutely paid and satisfy'd, as to every thing that appertains or could appertain to me, at present or for the future; in respect to any Right, known or unknown, in the future Succession and Inheritance of their Catholick Majesty's my Parents, and upon account of any share in my Father and Mother's Estate, or by way of support, or maintenance, or Portion, as well in respect to their free Possessions, as those of the Crown of their Kingdoms, Estates and Signiories; without reserving to my self or mine, any Plaint or Pretension against or upon his Majesty, or his Successors, to demand or pretend that I ought to have a larger Sum, or a Portion of greater value and consideration than the said Five Hundred Thousand Crowns. And my Will is, That this Renunciation shall also extend to any other Rights or Pretensions whatsoever, that might belong or appertain to me by Inheritance, or Succession of any Right or Kindred,

dred, in a right or Collateral Line, by my self or by
 other Persons, as their Majesty's Daughter : *And I abandon and quit all of them, both the one and the other, of what condition, nature, quality, value and importance they may be ; and yield, renounce and transfer them to the King my Lord, and his Heirs, universal and singular Successors, that shall have his Right ; to the end he may be able to dispose of them as he pleases, and it seems good in his sight, as well by Gifts while alive, as by his Legacies in his last Will and Testament, without any Obligation upon his Majesty, to constitute or leave me his Heir or a Legatee, or to make any mention of me :* For I do in respect to the things aforesaid declare my self, and that I ought to be held and reputed a *Stranger* ; and as such I ought to have no Resource left, so as to have power to make any Claim, or to prefer any Complaint, notwithstanding the Inheritance his Majesty my Father shall leave, may be of very great and so considerable value and importance, that out of the same there might appertain to me, as one of his Children, as we are at present, or shall be for the future, a much greater Sum than the said Five Hundred Thousand Crowns, *be the same never so great and extraordinary :* And that tho' it should so happen (which God forbid) that I should at the time of his Death remain and become *his only Daughter*, by reason of the death of my Brothers, and other his lawful Descendants before him ; and to the end that no Demands may be made nor pretended to for me, or in my name, nor in the Right of my Person, of any other greater share of the Estate and Inheritance of the King my Lord, in any Case or upon any Account whatsoever ; I do promise that I will not consent nor allow, at any time, nor upon any occasion, under any pretence whatsoever, that any thing shall be done against this my Renunciation, and relinquishing, of my said Rights, Claims, or Pretensions. And I do withal relinquish and renounce *all and every ordinary and extraordinary Remedies whatsoever*, that do or may appertain to me, by common Course and the Laws of this Kingdom, or special Privilege, and particularly that of *Restitution ad integrum*, grounded upon the defect of my Age, enormous or very enormous damage, by saying the Portion should have been the cause of this Contract, or upon

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pretend to the Succession of Spain, by Right of Blood, and of all those that are excluded by Renunciation

PHILIP II.
Had four Wives, and left several Children: Those who had any Issue were Catherine born of Eliz. of France, and Philip born of Anne of Austria.

PHILIP III.
married Margaret of Austria, by whom he had three Children.

PHILIP IV.
had two Wives by whom he left three Children.

MARY,
Infanta, married in 1631, to Ferdinand III. Emperor; by whom she had,

Posterity of

ANNE,
Infanta, married in 1615, to Lewis XIII. King of France. She renounced plainly and simply.

the Infanta Anne.

Posterity of the Infantas Mary Teresa and Margaret Teresa.

Posterity of the

Infanta Mary.

PHILIP,
of France, Duke of Orleans, left three Children.

MARY TERESA,
married in 1660, to Lewis XIV. King of France, she renounc'd.

MARGARET TERESA,
married in 1666, to Leopold, the Emperor, left but one Daughter.

CHARLES II.
died November 1. without Issue.

LEOPOLD I.
Renounc'd, September 1. 1703. in favour of his Son Charles. He died May 5. 1705. leaving five Children; viz.

MARY ANNE.
Married to Philip IV. King of Spain, by whom she had Margaret Teresa and Charles II.

ANNE,
of Orleans, married in 1684, to Victor Amadeus, Duke of Savoy.

ELIZABETH CHARLOTTE,
married in 1698, to the Duke of Lorraine.

PHILIP,
Duke of Orleans, he has Three Children.

LEWIS,
Dauphin of France, died, April 14. 1711. left three Sons.

MARY ANTOINETTE,
married in 1685, to Maximil. Eman. El. of Bavaria. She renounc'd. Her only Son was,

JOSEPH I.
Emperor, renounc'd September 12. 1703, in favour of his Brother Charles, and died April 12. 1711. leaving two Daughters, viz.

MARY ELIZABETH,
Arch-Duchess; born Septem. 13. 1680.

MARY ANNE,
married in 1708 to John II. King of Portugal. Has by him,

CHARLES VI.
Emperor, and King of Spain.

MARY MAGDALEN,
Arch-Duchess, born March 26. 1689.

MARY ADELAIDE,
married to the Duke of Burgundy, February 12. 1712. She had renounc'd.

MARY LOUISA,
married in 1701. to the Duke of Anjou, who holds Spain and the West Indies. She also renounc'd.

PHILIP JOSEPH,
Prince of Piemont.

N.
Duke of Anjou.

N....

N....

N....

N....

LEWIS,
Duke of Chartre.

CHARLOTTE AGLOE,
call'd Mademoiselle de Valois.

N.
call'd Mademoiselle de Montpensier.

LEWIS,
D. of Burgundy, and afterwards Dauphin; died, Feb. 18. 1712.

PHILIP,
Duke of Anjou, holds Spain and the West Indies. He has Two Sons.

N.
D. of Berry, married, but as yet has no Children.

JOSEPH FERDINAND,
Electoral Prince of Bavaria, Born in 1692. died in 1699.

MARY JOSEPHA,
Arch-Duchess, born December 6. 1699.

MARY AMELIA,
Arch-Duchess, born October 22. 1701.

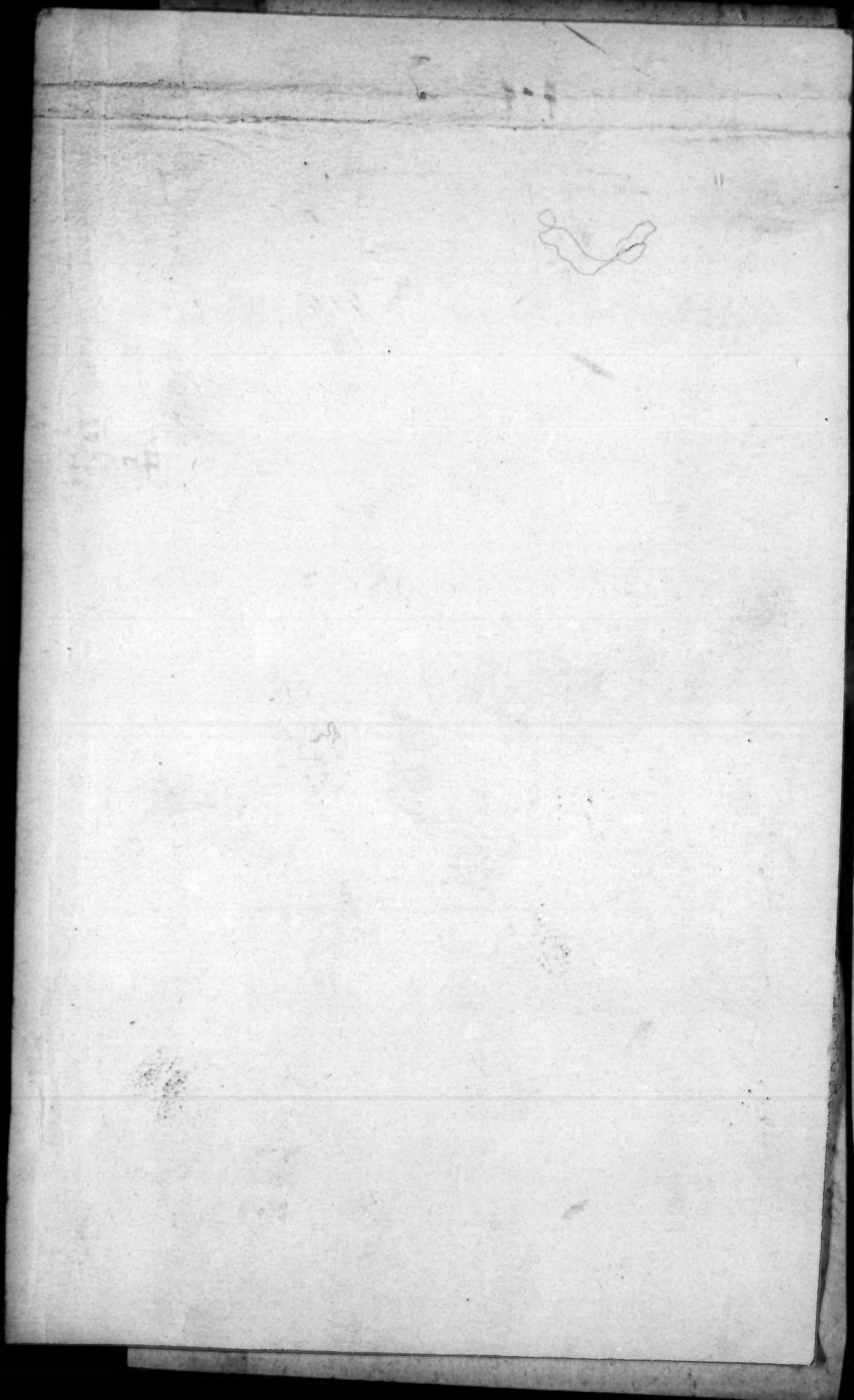
N.
Infanta of Portugal, born December 4. 1711.

NB. The Children of these two Princesses are not here inserted, because they must be extinct before they could come in Order of Succession, tho' they had not renounc'd.

N.
D. of Anjou; and now Dauphin. Born February 15. 1719.

N.
pretended Prince of Asturias. Born August 25. 1707.

N.
pretended Infante; born June 7. 1712.



the uncertainty of what I renounce ; to the end that none of the said Remedies and above-mentioned Resources may or can serve by way of Justice or Suit ; neither can they, for my self, my Children and Heirs, be heard and all allow'd of ; and we are forbid and hinder'd Access so as to bring on and to propose them judicially or extrajudicially, either by way of Grievance, Reserve or simple Complaint ; so that those Things always, and at all times, are to be observ'd and accomplish'd, that have been settled by the said Articles ; and what I have promised by this Instrument, concerning the Confirmation and Approbation of them, and do promise upon my Royal Word, that they shall be maintained, accomplished and observed, inviolably at all times, under the Obligation and Penalty of my Estate and Revenues I have or shall have. And I do empower his Catholick Majesty's Council, and the Kings his Successors, and the Persons who are intrusted by them, with the Execution of this Instrument, that they do, observe and execute the same ; and for the greater validity thereof, I do swear by the Holy Gospel contained in this Missal, (upon which I place my Right-hand) that I shall at all times, and so far as it shall lye upon me, observe and fulfil the same, without saying or alledging, that in order to do and agree to it, I was introduc'd, drawn in and persuaded, out of the Respect and Veneration which I ought to have and carry towards the King my Lord, who hath kept and does still keep me under his paternal Authority : Forasmuch as that I do declare, That his Majesty always left me to my free Will and Choice ; which was really so, and no ways relative as to what concerns this Contract. And I do promise to ask for no Dispensation of this Oath, from the Pope and the holy Apostolick See, nor from his Nuncio and Legate *à latere*, nor any other Person, who hath Power or Authority to free me ; and if it should come to be ask'd on my Request, or some third Person, or granted me *motu proprio*, I shall not make use of the same, tho' it were only to sue at Law, without meddling with the virtue and substance of the said two Articles of Marriage, nor that of this Instrument, which I make to confirm them, notwithstanding any Clauses whatsoever that are derogatory from this Oath. And in case the same be granted to me once or oftner, I shall take other Oaths anew ; so that there shall always remain upon Record more Oaths oyer and above all the

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said

said Dispensations. And as for the same, I do declare and promise, that I neither have nor shall make any Protestation nor Reclamation, in publick or secret, contrary to this my Promise and Obligation, towards the weakning or lessening of its Force; and if I should happen to do it, even with another Oath contrary to this, that it shall nor stand in any stead, or be any advantage to me. And I do promise and oblige my self, that as soon as I shall be conducted and brought into the Company of the Most Christian King, in pursuance of the said Articles, I shall, in conjunction with his Majesty, pass another Instrument, with all the Clauses, Oaths and necessary Obligations; as also the Insertion and Ratification of this same Act, made in this City of *Fuenterabia*, where my Lord the King is present with his Court, *June 2.* this Year 1660. in the Presence of the King our Master, who in continuation of the Grant above-mention'd, saith, That his Catholick Majesty would supply with his Royal Authority, and would have deem'd as supply'd, all Defects whatsoever, Omissions of Facts, or Right, Substance or Quality, Style or Custom, which might be us'd in the drawing up of this Act of Renunciation, of any Shares and future Successions, which the Most Serene Infanta, the intended Q. of *France*, his most dear and well-beloyed Daughter, hath done and agreed to; and that he, out of his full and absolute Power, as King, who acknowledges no Superior in Temporalities, hath confirm'd and approv'd, doth confirm and approve, with Derogation for this time to all Laws and Ordinances, Usages and Customs, that may be to the contrary, or hinder the Effect and Accomplishment of it. And for the greater Confirmation of the whole, he commands it should be seal'd with the Seal Royal, these Persons following being call'd and requir'd to witness the same: Don *Lewis Mendez de Haro*, Marquess *del Carpio*, Conde Duke *d'Olivares*, Don *Ramiro Nunes de Guzman*, Duke *de Medina de las Torres*, Don *Gaspar de Hino*, Marquess *de Eliche*, Don *John Dominick de Gusman*, Count *de Monterey*; Don *Diego de Aragon*, Duke *de Terranova*; Don *Guillen Raman de Moncada*, Marquess *d'Aytona*; Don *Pedro Puerto Carrero*, Count *de Medellin*; Don *Pedro Colon de Portugal*, Duke *de Veraguas*; Don *Antonio de Peralta Hurtado de Mendoza*, Marquess *de Mondejar*; Don *Alonzo Perez de Guzman*, Patriarch of the Indies; Don *Alonzo Perez de Vivero*, Count *de*

de Fuelsaldagna, of the Council of State; Don *John de Caravajal*, and *Sandi* of the Council and King's Chamber; Don *Diego de Tejada*, Bishop of *Pamplona*; and several Lords and Knights there present. Sign'd, I the King, *Maria Theresa*.

I Don *Ferdinando de Fonseca Ruis de Contreras*, *Marquess de Lupella*, Knight of the Order of *St. James*, one of the Councils of War, *Indies*, and Chamber of the same appertaining to his Catholick Majesty, Secretary of State, and of the universal Dispatches, and Notary in his Kingdoms and Dominions, who was present at the Oath, Grant, and every thing above-contain'd, do witness the same; and that the said Second and Fourth Articles of Marriage, as they are before specify'd, have been faithfully copy'd and collated with the Original, which is in my Hands. In testimony of the Truth whereof, I have sign'd and subscribed my Name, Don *Fernando de Fonseca Ruis de Contreras*.

The Catholick King my Sovereign Lord, having been pleas'd to order me, Don *Blasco de Loyola*, Commander of *Villarubia de Ocana*, of the Order and Knighthood of *St. James*, one of his Council and Secretary of State, to make a Copy of the Instrument of Renunciation, which the Infanta *Maria Theresa*, his Daughter and future Q. of *France*, hath made and granted before Don *Ferdinando de Fonseca Ruis de Contreras*, *Marquess de Lupella*, Knight of the Order of *St. James*, one of the Council of War for the *Indies*, and of the Chamber of the same for his Catholick Majesty, Secretary of State, and of the Universal Dispatches, and Notary in his Kingdoms and Dominions, of her Share in the Estates of her Father and Mother, in order to send it to Don *Estevan de Gamarra*, his Ambassador to the States General of the united Provinces; and having actually done it, I do certify, that this Copy agrees with the Original in my Hands, with which it has been collated; and to manifest the same, I have put my Name to it, and it's seal'd with the Royal Privy Seal, which is also in my Hands. *Madrid, July 16. 1660.* Sign'd Don *Blasco de Loyola*, and at the side his Majesty's Seal upon a Red Wafer.

LETTER F.

*An Act of Renunciation, made June 2. 1660.
at Fuenterrabia, by the Infanta Mary The-
resa, of all the Right of Succession which
might appertain to her, to the Crown of
Spain.*

THE Lady *Mary Theresa*, Infanta of both *Spains*, and by the Grace of God future Q. of *France*, eldest Daughter to the most High, most Excellent, and most Potent Prince, Don *Philip IV.* by the same Grace Catholick K. of both *Spains*, my Lord (whom God preserve and prosper) and of the most High, most Excellent, and most Potent Princess the Lady *Isabella*, the Catholick Q. of Glorious Memory, my Mother and Lady (who is in Heaven). By the Narrative and Publication of this Instrument and Act of Approbation, Confirmation and Ratification, and of what is further therein contained, *in perpetuam rei Memoriam*; Be it known and manifest to Kings, Princes, Potentates, Republicks, Communities, and particular Persons, that are now, or shall be in all time coming; That forasmuch as the most High, most Excellent, and most Potent Prince *Lewis XIV.* the most Christian K. of *France*, my Cousin-German, sent the Marechal D. *de Grammont* on a particular Embassy to the Catholick K. my Lord, to demand and propose in his Name, that I should be betrothed and marry'd to the said most Christian K. my Cousin; and his Catholick Majesty having a just Esteem of that Offer and Proposal, and a due regard to Decency, Equality, and publick Conveniency, which met in this Marriage, granted and agreed to the same, having beforehand a Dispensation from his Holiness, for the Kindred and Consanguinity betwixt me and the most Christian King my Cousin, and that afterwards in consequence of this Octroy and Agreement, and, and with the Powers of their Catholick and most Christian Majesties, our Treaty of Marriage was agreed to, and sign'd the 7th of Nov. 1659. in the Isle of *Pheasants*, in the River *Bidassoa*, depending on the Province of *Guipuscoa*, confining on these Kingdoms and that of *France*; and that in the fifth and sixth Articles of the said Treaty, it was resolved and agreed on conjunctly, and with one accord, as

a thing very convenient, after having considered it carefully, and with mature Deliberation, that I and the Children and Descendants which it may please God to give us by this Marriage, be, and remain incapable, and absolutely excluded from all Right and Hope to succeed to any of the Kingdoms, Dominions and Lordships, belonging to the Crown and Monarchy of *Spain*, or that may be added thereto by his Catholick Majesty, or after his Life (which God grant may be long and happy) by the Kings his Successors. And though it be agreed on by Covenant betwixt Princes and Sovereign Kings (who in Temporals own no Superior) out of their Favour and Good-will to the Publick Cause of both Kingdoms, and that they have condescended to this at the desire and Joint-wishes of their natural Subjects and Vassals, who are willing that it should have the Force and Vigour of a Law and pragmarick Sanction, and that it be received and observed as such; and tho' on that Account it would seem there's no need of any other Solemnity to make it firm, yet nevertheless it is their Majesty's Will (if my Approbation might be convenient on any Consideration whatever) that I should incontinently give it, when the Marriage agreed on came to be solemniz'd and contracted, and that my Approbation should have all the Clauses and necessary Solemnities according to, and as it is stipulated and declar'd more particularly by, the Act of Ten Articles, the Tenor of the fifth and sixth of which taken from the Original are inserted here *Verbatim* as follows:

The Fifth Article. That forasmuch as the most Christian and Catholick Kings are come to make a Marriage, that by this Tye they may so much the better perpetuate and assure the publick Peace of Christendom, and betwixt their Majesty's that Love and Brotherhood which every one hopes will be betwixt them, and also in Consideration of the just and lawful Causes, which shew and demonstrate the Equality, and the Convenience of the said Marriage; by means of which, and through the Favour and Blessing of God, all Men may hope for happy Success, to the great Advantage and Increase of the Christian Religion and Faith, to the Welfare and common Benefit of the Kingdoms, Subjects, and Vassals of the two Crowns; as also for what relates to the Welfare of the Publick, and the Preservation of the said Crowns; which being so great and potent, cannot be united in

one, and that henceforward it is the design to prevent the occasion of such a Conjunction. Then considering the quality of the above-mention'd, and other just Reasons, and especially that of the Equality which ought to be preserv'd, their Majestys agree by Contract and Covenant between themselves, which shall have the force and vigour of a firm and stable Law for ever, in favour of their Kingdoms, and the publick Welfare of the same, that the most serene Infanta of *Spain*, the Lady *Maria Theresa*, and the Children born of her, whether Male or Female; and their Off-spring of the first, second, third Generation, or of whatever other Degree, shall never succeed to the Kingdoms, States, Lordships and Dominions which appertain, or may appertain to his Catholick Majesty, and which are comprehended under the Titles and Qualities mention'd in this present Agreement, nor to any of his other Kingdoms, Dominions, Lordships, Provinces, Isles adjacent, Fiefs, Chieftainries, nor to the Frontiers which his Catholick Majesty possesses at present, or which pertain, or may appertain to him, either within or without the Kingdom of *Spain*, or which in time to come his said Catholick Majesty, or his Successors shall have, possess, or have belonging to them, nor to any of those that are comprehended in those, or depend upon them, nor to any of those which hereafter, or in what time soever he may acquire or add to his abovemention'd Kingdoms, States, Islands, Dominions, or which he may recover, or may devolve upon him, or by what other Titles, Rights, or Reason soever, tho' it should be during the Life of the said most serene Infanta, the Lady *Maria Theresa*, or after her Death, or in that of any of her Off-spring, first, second, third Generation, or further; that in the Case or Cases by which, either of Right, or by the Laws and Customs of the said Kingdoms, Dominions, and States, or by the dispositions of Titles, by which they may succeed, or pretend that the Succession of the said Kingdoms, &c. ought to belong unto them: From the Succession to which, in all the above-mention'd Cases, from this time forward, the said Lady *Maria Theresa*, the Infanta, owns and declares herself to be, and remain well and duly excluded, together with all her Children and Descendants, Males or Females, though they would or might say and pretend, that as to their personal Right, neither the said Reasons of the publick Welfare, nor any other, upon which the said Exclusion may be founded, can take place; or if they should alledge (which God forbid) that the Succession of the Catholick King, or of the most serene Princes and In-

Infanta's, and of the Males which he hath, or may have for his lawful Successors, hath ceas'd and fail'd; because as has been said, that in no case, in no time, nor in any manner whatever, neither she, they, nor their Heirs and Descendants must succeed, nor pretend any Right to succeed, notwithstanding any Laws, Customs, Ordinances, and Settlements, by virtue of which, any have succeeded to the said Kingdoms, Dominions and Lordships, and also notwithstanding all the Laws and Customs of the Crown of *France*, which oppose this abovemention'd Exclusion, as well for the time present, as for the time to come; and notwithstanding the Cases which would have long delay'd the said Successions. All which Considerations together, and each of them apart, their said Majesties abrogate, in as far as they contradict or oppose the Contents of this Contract, or the fulfilling and execution of the same, and that for the Approbation and Ratification of this present Agreement, they do abrogate the same, and hold them as abrogated; and their Will and Meaning is, That the most Serene Infanta, and her Offspring, remain henceforward and for ever excluded from any Power to succeed at any time, or in any case, to the Dominions of the Country of *Flanders*, the County of *Burgundy* and *Charolois*, their Appurtenances and Dependencies. In like manner also they declare most expressly, that in case the most serene Infanta happen to be a Widow (which God forbid) without Children by this Marriage, she shall be free from this Exclusion, and therefore declar'd capable of her Rights and Power to succeed to all that may belong or fall to her, in two Cases only: the one, that if she be a Widow without Children by this Marriage, she return into *Spain*; and the other, if from Reasons of State, for the good of the Publick, and other just Considerations, she marry again with the Consent of the Catholick King her Eather, or of the Prince, her Brother; in those two cases she shall be capable of succeeding and inheriting.

VI. That the most serene Infanta the Lady *Maria Theresa*, before the Celebration of the Marriage, shall, by word of Mouth, give, promise and authorize a Writing, by which she shall oblige herself, her Successors and Heirs, to the accomplishment and observation of all that is before-mention'd, for the Exclusion of herself and her Offspring; and shall approve the whole, as it is contain'd in this present Agreement, with the requisite and necessary Clauses and Oaths; and at the inserting of the same Obligation and Ratification which her Highness shall give and make

of the present Agreement, she shall make such another conjointly with the most Christian King, as soon as she shall be marry'd, which shall be enregister'd in the Parliament of *Paris*, with other necessary Clauses, according to the usual form. As also his Catholick Majesty shall approve and ratify the Renunciation, with other necessary Clauses, in the usual manner and form, and cause them to be enregister'd in his Council of State; and whether the said Renunciations, Ratifications, and Approbations be made or not, from henceforward, by virtue of this present Agreement, and of the Marriage that shall follow upon it, and in consideration of all the things beforemention'd; they shall be held and accounted as well and duly made and authoriz'd, and as pass'd and register'd in the Parliament of *Paris*, by the publication of the Peace in the Kingdom of *France*.

After the insertion of the Articles, the Infanta goes on in the following Terms.

And forasmuch as after the Treaty beforemention'd, our most holy Father *Alexander VII.* dispens'd with the degree of Consanguinity which is betwixt the said most Christian King and me, and approv'd by his Authority and Apostolical Benediction our Treaty of Marriage, and its Articles; and that the case and time is come, when the Marriage is to be solemniz'd and contracted with the Blessing of God; and as we are to hope, for his Glory and Service, the Exaltation of his holy Faith, and the Tranquility of the Christian Commonwealth, by means of which, the case and time is also come, when I am to fulfil on my part, (before Marriage) the Contents of the fifth and sixth Articles which are inserted in this Act; and that I am likewise in Majority, of the Age of twenty Years; and that it hath pleas'd the Lord to give me Capacity and Discretion to understand and comprehend the substance and effect of the said Articles, of which I had certain and due notice, forasmuch as I have frequently inform'd myself of them, and of their Conveniency, during the time of six Months, since they were publish'd and agreed on, and that it was sufficient to give me that Satisfaction I ought to have of their Justice, to know that the Affair was examin'd and agreed on by my Lord the King, who desires and procures my Contentment and Welfare with so much Love and Care, having a joint regard to the publick and common good of the Kingdoms, of which God hath given him the Charge; and which, as well as those of

the Crown of *France*, are equally Concern'd, that the Grandure and Majesty which they bear, and have preserv'd in themselves for so many Years, with so much Prosperity, and that the Glory of their respective Names of Catholick and most Christian Kings may not be diminished nor fall, as necessarily they must, if by means of this Marriage they come to unite in any of the Children and Descendants: This would cause, to their Subjects and Vassals, such Discontent and Affliction as may be easily foreseen, and would be attended by such Inconveniencies and Losses, which are more easily apprehended before they happen, than help'd and redress'd when they once come to pass, and are felt; and therefore it is agreed to prevent them, that this Marriage may not be the Cause of Effects contrary to those which we promise ourselves, and are to hope from it. Besides, that this Precedent will facilitate in time to come, reciprocal Marriages, betwixt my Posterity and those of my Lord; which Consideration affords me particular Comfort and Satisfaction, forasmuch as it will be a means to strengthen and renew from time to time, the Bbnd of Blood and Kindred, and will likewise ascertain and confirm more powerfully and effectually the Alliance, Friendship, and good Correspondence that hath been cemented and contracted by such happy beginnings, betwixt those two Kingdoms. Thus they will be continued to the Glory of God, and the Renown of the Catholick and most Christian Kings; which being the publick and common Good, ought, in Reason, to be preferr'd to my particular Advantage, and that of my Children and Descendants, which in the present case is not to be regarded, forasmuch as 'tis known to be very remote. I am so much the more satisfy'd in the Justice of this Renunciation and Act, that herein I follow the Example and Authority of the most high, most excellent, and most potent Princess, *Madam Anne* Infanta of *Spain*, at present the most Christian Queen of *France*, and my well-belov'd and much rever'd Aunt and Lady; and that besides the Considerations and publick Causes before-mention'd, and that of preserving and ascertaining the Peace betwixt the two Nations (which concur also) and are alledg'd in the said Treaty and Renunciation, it hath fallen in with the present Case, and hath been consider'd as the publick Cause, and the chief and greatest Cause for the Renunciation agreed to in my Treaty of

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Marriage, that the said Treaty is known to be the main and principal Cause of the Pacification of a War of 25 Years duration betwixt the two Crowns of *France* and *Spain*, in which Quarrel the greatest Potentates of *Christendom* were concern'd by Alliance or Dependance: So that the Welfare of the Whole, the publick Cause, and, which is the Chief of all, the Catholick Religion, having suffer'd much by the War, and being no way to be remedy'd but by the Peace granted by the means and for the sake of my Marriage, which would not have been granted, nor consented to by the King my Lord, if this Renunciation had not been agreed to, as was taken notice of in the First Article of my Contract of Marriage, and in the three and thirtieth Article of the Treaty of Peace betwixt the two Crowns, which in this Consideration refers to the particular Treaty made upon the Conditions of my Marriage, and both of them were sign'd the same Day; and in the said three and thirtieth Article of the Peace it is declar'd, that the said Treaty made upon the Terms of my Marriage, notwithstanding its being separate, should be of the same Force and Obligation with that of the Peace, as being the principal part of it, and the most precious Earnest of its Firmness and Duration: Therefore of my own proper Motion, free, spontaneous and chearfull Will, and having certain Science and Knowledg of the Act which I do, and what my Consent imports and may import, I approve, confirm and ratify, in the best Manner and Form I can and ought to do, the said Agreement according to; and in that manner as is more particularly contain'd in the said fifth Article; and in case it should be judg'd necessary and convenient, I give my absolute and sufficient Power to the King my Lord, and the most Christian King, to agree and enact the same again; tho by virtue of, and in accomplishment of the said Article, I declare and look upon my self as excluded and remov'd, and the Children and Descendants of this Marriage excluded, and absolutely disabled, and without limitation, difference, or distinction of Persons, Degrees, Sex, Time, Action and Right, to succeed to the Kingdoms, Dominions, Provinces, Lands and Lordships of the Crown of *Spain*, express'd and declar'd hereby. And I will and consent for me, and for my said Offspring, that from henceforward and for ever, they be held as granted and transferr'd to him who shall be found nearest of Kin (because I and they are excluded, disabled and incapable) to the King, by whose Death it becomes vacant, to the end he may hold them as lawful and true Successor, in the same

same manner as if I and my Descendants were not born, nor had a being in the World, because we ought to be held and reputed as such, and that neither they nor I are to be consider'd in any manner as Representatives or Descendants of the Lineage, Blood or Dignity of the King my Lord, or of the glorious Kings his Predecessors, nor in any other way so as to enter into the Succession, or pre-occupy the degree of Proximity, in exclusion of the Person who shall be found next in degree as before said to the King reigning immediately before the Line fails. And I promise and oblige my self on my Royal Word and Faith, that in every thing which shall depend on me, and on my said Children and Offspring, we shall always and at all times take care that this Article, and the Act which I make for its Approbation and Confirmation, be inviolably observ'd and accomplish'd, without allowing or consenting that any thing be done contrary to it, directly or indirectly, in whole or in part. And I renounce and quit all Remedys at Law, known or unknown, ordinary or extraordinary, that belong or appertain by common Right or special Privilege to me or my said Children and Descendants, to revoke, say or alledge any thing against what is done, as above ; and I renounce all Claims, and particularly that of having Restitution *in integrum*, founded upon Ignorance, Inadvertency of Youth, evident Injury, enormous or most enormous, that may be alledg'd to be in the said Renunciation, or quitting of my Right, to succeed at any time to so many and such great Kingdoms, Dominions and Lordships : and 'tis my Will that none of the said Pleas, nor any other of what Name, Character, Importance and Qualiry soever, be of any use to us judicially or extrajudicially ; and that if we demand them, or attempt to sue them by way of Law and Justice, that we be deny'd and excluded from all sort of hearing ; and if by way of Violence, or any other ill-founded Pretext, in distrust of Justice (because we ought always to own and confess, that we have no Right to succeed to any of the said Kingdoms) we offer to seize them by Force of Arms, by making or moving an offensive War, that from thenceforward and for ever it be held, judg'd and declar'd as an unlawful, unjust, ill-grounded, violent, tyrannical Invasion and Usurpation against all Reason and Conscience ; and that on the contrary, that War which shall be made or mov'd by him who ought to succeed in exclusion of me, and my said Offspring and Descendants, be held for
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just and lawful; and that the Subjects and Inhabitants ought to receive and obey, swear Homage, Fealty and Obedience to him as to their King and lawful Sovereign. And I affirm and certify, that to authorize this Act, I have not been induc'd, inclin'd, or perswaded by the Respect and Veneration which I owe and have for the King my Lord, as a Prince so puissant, and as a Father who loves me, and whom I love so much, and who keeps and hath kept me under his paternal Power; because in truth all that passes and hath pass'd, in respect of the Conclusion and Effect of this Marriage concerning the said Agreement, and Article of the Exclusion of my self and of my Descendants, I have had all the Liberty which I could wish for to say and declare my Will, without being put in fear, or threaten'd by him or any other Person, to induce or move me to do any thing contrary to my inclination. And for the greater Validity and Certainty of that which is said and promis'd on my part, I swear solemnly by the Gospels contain'd in this Missal (upon which I lay my right Hand) that I will observe, maintain and accomplish it in whole and in part; and that I shall not demand any Dispensation of my Oath from our most holy Father, nor from the holy Apostolical Chair, Legate, or any other Dignity, that hath power to grant it me; and that if the same should be granted me at my own Instance, or at that of any University or particular Person, or *Motu proprio*, tho it should be no more but to go to Trial, without touching on the substance of the said Claims, and on the virtue and force of this Act and Treaty, which I do hereby approve, I shall not make use of, nor serve my self with it. On the contrary, in case I should have the Authority granted me, I take my Oath a second time against all Dispensations that shall be granted me; and by the same Oath I say and promise, that I neither make nor shall make any Protestation or Revocation in publick or in secret, that may hinder or diminish the force of the Contents of this Act; and if I do, tho it should be under Oath, it shall be of no Validity, Force nor Effect. And I pray his Holiness, that since this Marriage and Treaty hath been concluded and agreed upon with his Holy and Apostolical Approbation, and is to be effected and solemniz'd with his Blessing, that he would be pleas'd to add to the Force, binding Power, and Religion of my Oath, by the Authority of his Apostolical Confirmation; and I promise and oblige my self, that in conformity unto, and in accomplishment of, the

sixth Article above-mention'd, as soon as I shall arrive at the place where the most Christian King shall receive me, I will make and cause to be made by his Intervention and Authority, and jointly with his most Christian Majesty, and with all the Clauses, Oaths and Conditions necessary and convenient, such another Act of Confirmation and Ratification as that which hath been made and expedited in this City of *Fuenterabía*, where the Catholick King my Lord now keeps his Court and Palace, this second day of *June*, 1660. in the presence of the King our Master.

And for the greater Solemnity, Authority and Validity of this Act, his Catholick Majesty hath said for the Accomplishment of the fifth and sixth Articles therein inserted, That as to what relates to the common Cause, and the common Welfare of his Kingdoms, Subjects and Vassals, he confirms and hath confirm'd this Act, according as it is expedited by the most serene Infanta Madam *Maria Theresa*, the betroth'd and future Queen of *France*, his most dear and well-belov'd Daughter; and that of his own proper Motion, certain Science, full and absolute Power, and as King and Lord, who owns no Superior in Temporals, he supplies, and wills that they be held as supply'd by his Royal Authority, whatever defects or omissions of Fact or Right, of Substance or Quality, of Seile or Custom, may be found in the said Act; and he confirms and approves, specially and particularly, the said fifth Article, and what is agreed and resolv'd therein, betwixt his Catholick Majesty and the most Christian King; and he wills and Commands that it have the force and vigour of a Law and pragmatic Sanction, and that as such it be receiv'd, kept, observ'd and executed, in all his Kingdoms, Dominions and Lordships, without any regard to the Laws, Ordinances or Customs to the contrary, from which it derogates; and his Will is, that for this time they be held as abrogated and made void, tho they be of such sort and quality, as that for their Derogation there should be requisite and necessary other more express and special mention: And he hath commanded that it be seal'd with his Royal Seal, and enregister'd and publish'd in his Council of State, and others to which it may belong. Of all which were call'd and requir'd to be Witnesses, Don *Lewis Mendes de Haro*, Count Duke *Olivares*, Don *Ramiro Nunez de Guzman*, Duke de *Medina de las Torres*, Don *Gaspar de Haro*, Marquis de *Eliche*, Don *Juan Domingo de Guzman* Count de *Monterey*, Don *Diego d'Aragon*, Duke de *Terranova*, Don *Guillen Ramon de Moncada*, Marquis de *Aytona*, Don *Pedro Portocarrero* Count de *Medellin*, Don *Pedro Colon de Portugal*, Duke de *Veraguas*, Don *Antonio de Peralta*, *Hurtado de Mendoza*, Marquis de *Mondejar*, Don *Alonzo Peres de Guzman* Patrlarch of the *Indies*, Don *Alonzo Perez de Vivero*, Count de *Fuensaldana*, Counsellor of State, Don *Juan de*

de Caravajal and *Sandi*, one of his Majesty's Council and Chamber, *Don Diego de Tefada* Bishop of *Pamplona*, and several other Lords, Knights and Domesticks of his Majesty, who were present. Sign'd,

I the KING. I *Maria Theresa*.

I *Don Ferdinand de Fonseca Ruyz de Contreras*, Marquis de *Lapilla*, Knight of the Order of *Santiago*, of the Councils of War, *Indies*, and Chamber of the same, Secretary of State, and of the Universal Dispatch, and Notary of these Kingdoms and Lordships, having been present at the Oath, granting and all the rest above-mention'd, do certifie the same, and that the said fifth and sixth Articles of Marriage, as above written, have been faithfully Copy'd from and compar'd with the Original, which is in my Custody. In Testimony of the Truth thereof, I have Sign'd it and Subscrib'd my Name.

Don Ferdinand de Fonseca Ruyz de Contreras.

The Catholick King, my Sovereign Lord, having been pleas'd to order me, *Don Blasco de Loyola*, Commendary of *Villarubia de Ocana* of the Order of Knighthood of St. *James* the Apostle, of his Council, and his Secretary of State, to make the above Copy of the Renunciation made and passed by the Lady Infanta *Maria Theresa*, his Daughter, now Queen of *France*, in the Presence of *Don Ferdinand de Fonseca Ruyz de Contreras*, Marquis de *la Lapilla*, Knight of the Order of *Santiago*, of the Councils of War and the *Indies*, and of the Chambers thereof, his Catholick Majesty's Secretary of State, and of the Universal Dispatch, and Notary in his Kingdoms, and the Lordships of his Kingdoms, States and Dominions, which compose the Crown and Monarchy of *Spain*, and of those which shall be incorporated therein, to be sent to *Don Stephen de Gamarra*, his Ambassador to the States General of the *Netherlands*, and having done it accordingly, I do certify, that this Copy agrees with the Original Instrument, which remains in my Custody, with which it has been compar'd, and in Testimony thereof, I sign it with my Name, and it is Seal'd with the King's Privy Signet, which is also in my Custody. *Madrid, July 16, 1667.* Sign'd, *Don Blasco de Loyola*. And on the Side his Majesty's Privy Signet, on a red Wafer.

LETTER G.

LAW II.

That the Eldest Son have Prerogative and Superiority over his other Brothers.

THE Advantage of being first born, is a great Token of the Love God shows towards the Sons of Kings, above their other Brothers who are born after them : For it plain-

plainly denotes, that he prefers and places him above the rest on whom he is pleas'd to confer this Honour, because it is their Duty to obey and observe him as their Lord and Father : There are Three Reasons which make out the Truth hereof, the First naturally, the Second by Law, and the Third by Custom. For according to Nature, since the Father and Mother are desirous to have Issue that may inherit what they have, he who is first born, and comes soonest to fulfil their Desires, ought of right to be best belov'd by them, and to possess what they enjoy. It is made out by Law, by what our Lord God said to *Abraham*, when he commanded him by way of Tryal to kill his first Son *Isaac*, whom he much lov'd, and to slay him for his sake ; and this he said to him for two Reasons, the one, because that was the Son he most lov'd, and even as his own self, for the reason abovesaid : The other, because God had chosen him for a Saint, when he would have him born first, and therefore he commanded *Abraham* to sacrifice him. For as he said to *Moses* in the old Law ; every Male that was first born should be call'd Holy to the Lord : And that his Brothers are to regard him as a Father, appears in as much as he is elder than they, and came first into the World ; and that they are to obey him, as their Lord is proved by the Words *Isaac* said to his Son *Jacob*, when he gave him his Blessing, believing he had been the Eldest : You shall be Lord over your Brothers, and the Sons of your Mother shall bow down before you. He whom you bless shall be blessed, and he whom you curse shall be cursed. By all which Words it appears, that the eldest Son has Power over his other Brothers, as Lord and Father, and that they ought to regard him as such. Besides, according to ancient Custom, notwithstanding, Fathers in Compassion to their other Sons, would not commonly allow the Eldest to have all, but that every one should take his Part ; nevertheless, wise and discreet Men, regarding the common Benefit of all, and being sensible, that this Partition could not be made in all Kingdoms without destroying them, according to what our Lord *JESUS CHRIST* said, That every Kingdom which was divided should be subverted ; they look'd upon it as of Right, that only the Eldest Son should have the Sovereignty of the Kingdom after his Father's Death, and this was always practis'd in all Countries throughout the World, where the Sovereignty was in one Family, and particularly in *Spain*. And to obviate many Mischiefs which had happen'd, and which might again fall out, they enacted, that those should always inherit the Sovereignty of the Crown, who descended in a direct Line ; and therefore they established, that if there was no Son, the eldest Daughter should inherit the Kingdom ; and they farther ordained, that in Case the eldest Son dy'd before he came to the Inheritance, if he left a Son, or a Daughter,

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by his Lawful Wife, that he or she should have it and no other. But if all the should dye, the nearest of Kin was to inherit the Kingdom, provided he was a Man of full Age, and had not done any thing, for which he ought to forfeit it. Therefore the People are to observe all these things, for otherwise the Kingdom will not be duly preserv'd, nor so preserv'd the Kingdom. And therefore whosoever shall act contrary to this, would be guilty of notorious Treason, and incur the Penalty abovesaid, to be due to those who disown the King's Authority.

LETTER H.

The separate Article of the Treaty of the Grand Alliance, concluded at Vienna, in May 1689.

SINCE it has been publicly given out by *France* in several Places and Courts, that notwithstanding the most solemn Renunciation, the *Dauphin* will immediately assert the Succession to the *Spanish* Monarchy by force of Arms, in Case the *Catholick K.* should happen to dye without Lawful Issue, and there being visible Interest made, to have the said *Dauphin* chosen K. of the *Romans*: The *States General* of the *United Provinces*, seriously considering, how dangerous to the Publick Weal, and how prejudicial to the common Tranquillity, either of those Pretensions might prove, they promise by these separate Articles, which are to be of no less force, than if they had been inserted in the main Body of the Treaty.

First, That in case the present King of *Spain* should depart this Life without leaving Lawful Issue, (which God of his Mercy avert) they will with all their Power assist his Imperial Majesty and his Heirs to assert and recover the Succession to him Legally appertaining of the *Spanish* Monarchy, it's Kingdoms, Provinces, Dominions, and the Rights thereof, and to secure him the Possession against the *French* and their Adherents, who shall go about to oppose this Succession, directly or indirectly, and will oppose Force against Force, whosoever shall attempt the contrary.

Moreover, they will use all their Endeavours with the Princes, Electors of the Empire, their Confederates, that the most Serene *Joseph K.* of *Hungary*, his Imperial Majesties Eldest Son may be as soon as possible chosen K. of the *Romans*; and if this Election should be obstructed by *France*, either with Threats or Arms, they will assist his Imperial Majesty with all their Forces for securing of the same.

The Crown of *England* shall be invited to come into this Treaty. Done at *Vienna*, May 12. 1689.

T. A. HENRT.
Count *Straasman*.

J. HOB.

FINIS.

